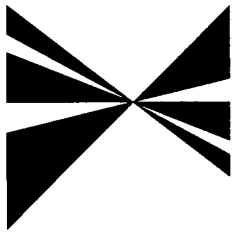


SOUTHERN CALIFORNIA



**ASSOCIATION of
GOVERNMENTS**

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Ventura County: Judy Mikels, Ventura County • Glen Becerra, Simi Valley • Carl Morehouse, San Buenaventura • Toni Young, Port Hueneme

Orange County Transportation Authority: Charles Smith, Orange County

Riverside County Transportation Commission: Robin Lowe, Hemet

Ventura County Transportation Commission: Bill Davis, Simi Valley

No. 454 MEETING OF THE

R E G I O N A L C O U N C I L

Thursday, September 2, 2004
12:30 p.m. – 2:00 p.m.

SCAG Offices
818 W. 7th Street, 12th Floor
San Bernardino A & B Conference Room
Los Angeles, California 90017
213/236-1800

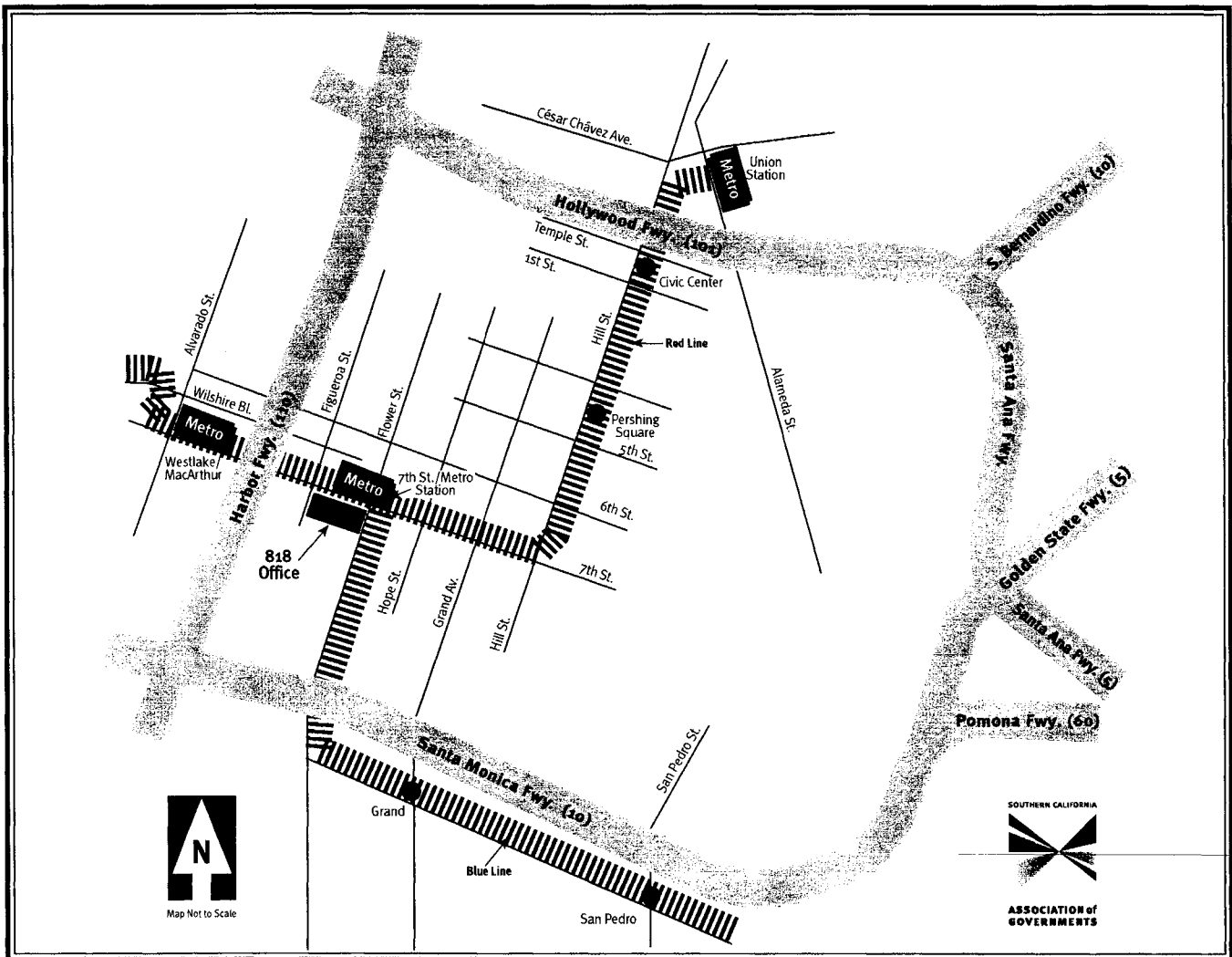
Agenda & Map Enclosed

**Agendas available on the
web at www.scag.ca.gov**

If members of the public wish to review the attachments or have any questions on any of the agenda items, please contact Shelia Stewart at (213) 236-1868 or stewart@scag.ca.gov.

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Rev. 9/99

REGIONAL COUNCIL

AGENDA

	PAGE #	TIME
n1.0 <u>CALL TO ORDER & PLEDGE OF ALLEGIANCE</u>	Councilmember Roberts, President	
MEETING FOCUS: <i>Regional Transportation Improvement Program</i>		
2.0 <u>PUBLIC COMMENT PERIOD</u> – Members of the public desiring to speak on items on the agenda, or items not on the agenda, but within the purview of the Council, must fill out and present a speaker's card to the Exec. Assistant prior to speaking. A speaker's card must be turned in before the meeting is called to order. Comments will be limited to three minutes. The President may limit the total time for all comments to twenty minutes.		
3.0 <u>CONSENT CALENDAR</u>		
3.1 <u>Approval Items</u>		
3.1.1 <u>Approve Minutes of Aug 5., 2004 Attachment</u>		01
3.1.2 <u>Contracts Attachment</u>		12
• Managing Excellence Consulting Services		13
• University of Southern California		15
• Kaku Associates		17
3.1.3 <u>Approve Draft Disadvantage Business Enterprise Policy Statement Attachment</u>		19
3.1.4 <u>Approve California Trucking Association Membership Dues Attachment</u>		100
3.2 <u>Receive & File</u>		
3.2.1 <u>Contracts & PO between \$5,000 - \$25,000 Attachment</u>		101
3.2.2 <u>Conflict of Interest Listing Attachment</u>		103
3.2.3 <u>SCAG Legislative Matrix Attachment</u>		104
3.2.4 <u>Report on On-line banking with Bank of the West Attachment</u>		117



REGIONAL COUNCIL

AGENDA

	<i>PAGE #</i>	<i>TIME</i>
<u>Receive & File – Cont'd</u>		
3.2.5 <u>Approval of NARC Membership Dues Attachment</u>	119	
3.2.6 <u>Meeting Summary from Policy Committees Attachment</u>	121	
3.3 <u>PRESIDENT'S REPORT</u>		
3.3.1 <u>Appointments to Committee & Task Forces</u>		
3.4 <u>EXECUTIVE DIRECTOR'S REPORT</u>		
4.0 <u>ACTION ITEMS</u>		
4.1 <u>Administration Committee Report</u>	Councilmember Dixon, Chair	
4.1.1 <u>Amendment to SCAG's Travel Policy Attachment</u>	123	
Recommended Action: Approve		
4.1.2 <u>Amendment of legal services contract with Fulbright & Jaworski & establishment of Legal Services Subcommittee</u>		
Recommended Action: Approve		
4.1.3 <u>Maglev 2004 Conference in Shanghai Attachment</u>	131	
Recommended Action: Approve		
4.2 <u>Transportation & Communications Committee (TCC) Report</u>	Councilmember Garcia, Chair	
4.2.1 <u>Draft 2004 Regional Transportation Improvement Program (RTIP) Attachment</u>	140	
Recommended Action: Adopt Resolution 04-453-2.		

Sept , 02 RC Agenda
DOCS# 101960 - Stewart

REGIONAL COUNCIL

AGENDA

		PAGE #	TIME
4.3	<u>Energy & Environment Committee (EEC) Report</u>	Supervisor Kuiper , Chair	
4.3.1	<u>Resolution on Building Energy Efficiency Attachment</u>		146
	Recommended Action: Adopt Resolution #04-454-2 to encourage adoption of Local Building Energy Efficiency Ordinances.		
4.3.2	<u>CALFED Bay-Delta Improvements Package Attachment</u>		183
	Recommended Action: Adopt Resolution 04-454-1 to encourage CalFed agencies to fund and implement measures to maintain operational balance and coordinate operations.		
4.4	<u>Community & Human Development Committee (CEHD) Report</u>	Councilmember Robertson, Chair	
4.4.1	<u>Policy Paper, "Promoting Regional and State Policy Objectives through Growth & Development Practices" July 2004 Attachment</u>		188
	Recommended Action: Approve		
4.5	<u>Communication Task Force Report</u>	Councilmember Proo, Chair	
5.0	<u>INFORMATION ITEMS</u>		
5.1	<u>Monthly Financial Report Attachment</u>	Heather Copp, CFO	194
5.2	<u>Membership Dues Attachment</u>	Heather Copp, CFO	202
5.3	<u>FY 05-06 Overall Work Program Priorities</u>	Jim Gosnell, Deputy Executive Director	

REGIONAL COUNCIL

AGENDA

PAGE #

TIME

6.0 FUTURE AGENDA ITEMS

Any committee members desiring to place items on a future agenda may make such request. Comments should be limited to three minutes.

7.0 LEGAL COUNSEL REPORT

7.1 Closed Session

- HDR Appeal

Conference with Legal Counsel – anticipated litigation
Significant exposure to litigation pursuant to California
Government Code Subdivision C §54956.9
(one potential case)

- SCAG v. HCD & BT&H

Conference with Legal Counsel - existing litigation to be
heard in closed session in pursuant to California
Government Code Section §54956.9(a)
Discussion re: appeal

- Morrison v. SCAG

Conference with Legal Counsel Government Code
section 54956.9(a) Morrison v. Southern California
Association of Governments et al. Superior Court,
Los Angeles County, Case No. BC 312066

9.0 ANNOUNCEMENTS

The E Region (NARC) Newsletter was emailed to all members. Additional copies will be available at the meeting.

10.0 ADJOURNMENT

The next meeting is scheduled for October 7, 2004 at SCAG Offices downtown Los Angeles.

Sept , 02 RC Agenda
DOCS# 101960 - Stewart

NO. 454

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

August 5, 2004

MINUTES

THE FOLLOWING MINUTES ARE A SUMMARY OF ACTIONS TAKEN BY THE REGIONAL COUNCIL. AUDIO CASSETTE TAPE OF THE ACTUAL MEETING IS AVAILABLE FOR LISTENING IN SCAG'S OFFICE.

The Regional Council of the Southern California Association of Governments held its meeting at SCAG Offices downtown Los Angeles. The meeting was called to order by the President Councilmember Ron Roberts, City of Temecula. There was a quorum.

Members Present

Councilmember Ron Roberts, Temecula, President	District 5
Supervisor Hank Kuiper, Imperial County, 1st VP	
Mayor Toni Young, Port Hueneme, 2 nd VP	District 45
Councilmember Bev Perry, Brea, Immediate Past President	District 22
Supervisor Marion Ashley, Riverside County	
Supervisor Paul Biane, San Bernardino County	
Supervisor Chris Norby, Orange County	
Supervisor Yvonne Burke, LA County	
Supervisor Judy Mikels, Ventura County	
Councilmember Greg Pettis, Cathedral City	District 2
Councilmember Bonnie Flickinger, Moreno Valley	District 3
Mayor Lee Ann Garcia, Grand Terrace	District 6
Councilmember Deborah Robertson, Rialto	District 8
Mayor Bill Alexander, Rancho Cucamonga	District 9
Mayor Gary Ovitt, Ontario	District 10
Mayor Lawrence Dale, Barstow	District 11
Councilmember Richard Dixon, Lake Forest	District 13
Councilmember Lou Bone, Tustin	District 17
Councilmember Alta Duke, La Palma	District 18
Councilmember Art Brown, Buena Park	District 21
Councilmember Paul Bowlen, Cerritos	District 23
Councilmember Gene Daniels, Paramount	District 24
Councilmember Keith McCarthy, Downey	District 25
Councilmember Frank Gurule, Cudahy	District 27
Councilmember Judy Dunlap, Inglewood	District 28
Councilmember Bonnie Lowenthal, Long Beach	District 29
Councilmember Tonia Reyes-Uranga, Long Beach	District 30
Councilmember Bea Proo, Pico Rivera	District 31
Councilmember Margaret Clark, Rosemead	District 32

000001

Councilmember Dick Stanford, Azusa	District 33
Councilmember Paul Talbot, Alhambra	District 34
Councilmember Harry Baldwin, San Gabriel	District 35
Councilmember Sid Tyler, Pasadena	District 36
Councilmember Tom Sykes, Walnut	District 37
Councilmember Llewellyn Miller, Claremont	District 38
Councilmember Paul Nowatka, Torrance	District 39
Councilmember Jim Aldinger, Manhattan Beach	District 40
Councilmember Mike Dispenza, City of Palmdale	District 43
Councilmember Dennis Washburn, Calabasas	District 44
Councilmember Greig Smith, Los Angeles	District 59
Councilmember Thomas Buckley, Lake Elsinore	District 63
Councilmember Debbie Cook, Huntington Beach	District 64
Councilmember Ted Burgnon, Town of Apple Valley	District 65
Councilmember Robin Lowe, Hemet	RCTC
Supervisor Charles Smith, County of Orange	OCTA

Members Not Present

Supervisor Zev Yaroslavsky, LA County	
Councilmember Jo Shields, Brawley	District 1
Mayor Ron Loveridge, Riverside	District 4
Councilmember Susan Longville, San Bernardino	District 7
Councilmember Cathryn De Young, Laguna Niguel	District 12
Councilmember Tod Ridgeway, Newport Beach	District 14
Councilmember Richard Chavez, Anaheim	District 19
Councilmember Isadore Hall, Compton	District 26
Councilmember Pam O'Connor, Santa Monica	District 41
Councilmember Bob Yousefian, Glendale	District 42
Councilmember Glen Becerra, Simi Valley	District 46
Councilmember Carl Morehouse, San Buenaventura	District 47
Councilmember Ed Reyes, Los Angeles	District 48
Councilmember Wendy Greuel, Los Angeles	District 49
Councilmember Dennis Zine, Los Angeles	District 50
Councilmember Tom LaBonge, Los Angeles	District 51
Councilmember Jack Weiss, Los Angeles	District 52
Councilmember Tony Cardenas, Los Angeles	District 53
Councilmember Alex Padilla, Los Angeles	District 54
Councilmember Bernard Parks, Los Angeles	District 55
Councilmember Jan Perry, Los Angeles	District 56
Councilmember Nate Holden, Los Angeles	District 57
Councilmember Cindy Miscikowski, Los Angeles	District 58
Councilmember Eric Garcetti, Los Angeles	District 60
Councilmember Antonio Villariagosa, Los Angeles	District 61
Councilmember Janice Hahn, Los Angeles	District 62
Mayor James Hahn, Los Angeles	At-Large
Mayor Bill Davis, Simi Valley	VCTC

Staff Present

Mark Pisano, Executive Director
Jim Gosnell, Deputy Executive Director
Heather Copp, Chief Financial Officer
Colin Lennard, General Counsel
Karen Tachiki, Chief Counsel
Hasan Ikrata, Director, Planning & Policy
Huasha Liu, Acting Director, Information Services
Shelia Stewart, Executive Assistant

1.0 CALL TO ORDER & PLEDGE OF ALLEGIANCE

2.0 PUBLIC COMMENT PERIOD

There were no comments presented at this time.

SPECIAL PRESENTATION

President Roberts presented a plaque to Ronald Bates, for his service as Past President and a Regional Council Member. At the last Regional Council meeting, Mr. Bates announced his resignation after 35 years of public service.

3.0 CONSENT CALENDAR

Supervisor Ashely ABSTAINED (item 3.1.2) and Supervisor Norby voted NAY (item 3.1.4) The remaining consent calendar items were MOVED (Mikels), SECONDED (Perry) and UNANIMOUSLY APPROVED.

3.1 Approval Items

3.1.1 Approve Minutes of June 3, 2004

3.1.2 Contracts

- Fregonese Calthorpe
- David Evans & Associates
- AG/HP (Touchstone Lake, LLC (lease renewal)
- The Patina Group
- Civic Resource Group

3.1.3 Approval 2004-05 Membership Dues for CALCOG

3.1.4 Approve Draft Disadvantage Business Enterprise Goal and Methodology for Federal FY 2004-2005

- 3.1.5 Approve Co-sponsorship of UCLA's Extension Public Program 2004 Arrowhead Symposium
- 3.1.6 Approve Co-Sponsorship of Rail-Volution Conference to be held on Sept 18-22
- 3.1.7 Co-Sponsorship of So. California Leadership Class XV Tuition, Luncheon & Graduation
- 3.1.8 Authorize Foreign Travel for Ron Roberts & Mark Pisano to make a Presentation at a Planning Symposium in Seoul, Korea in October 2004 at the request of the Seoul Development Institute
- 3.1.9 Approval of Membership Dues for Coalition for America's Gateways & Trade Corridors for 2004
- 3.1.10 Approval to Sponsor 3rd Annual Inland Empire Transportation & Logistics Summit
- 3.1.11 Ratify SCAG Committees and Task Force

The item was continued.

3.2 Receive & File

- 3.2.1 FY 2004-2005 OWP Administrative Amendment
- 3.2.2 Contracts & PO between \$5,000 - \$25,000
- 3.2.3 Conflict of Interest Listing
- 3.2.4 SCAG Legislative Matrix

3.3 PRESIDENT'S REPORT

- 3.3.1 Announcement of Chair & Vice Chair of the Administration Committee

Councilmember Dixon was selected as Chair and Councilmember Tyler as Vice Chair.

- 3.3.2 Appointments to Committee & Task Forces

Councilmember Roberts will meet with staff to review attendance of subcommittee & task force members. Appointments will be made upon the completion of the review.

Regional Council Members to Administration Committee

Hon. Bill Alexander (SANBAG)
Hon. Harry Baldwin, *Vice Chair, TCC* (SGVCOG)
Hon. Paul Bowlen, *Vice Chair, CEHD* (GATEWAY CITIES)
Hon. Margaret Clark, *Vice Chair, EEC* (SGVCOG)
Hon. Mike Dispenza (NORTH LA COUNTY)
Hon. Richard Dixon (OCCOG)
Hon. Alta Duke (OCCOG)
Hon. Lee Ann Garcia, *Chair, TCC* (SANBAG)
Hon. Hank Kuiper, *1st Vice President and Chair, EEC* (IVAG)
Hon. Ron Loveridge (WRCOG)
Hon. Keith McCarthy (GATEWAY CITIES)
Hon. Judy Mikels, Ventura County
Hon. Paul Nowatka (SOUTH BAY CITIES)
Hon. Pam O'Connor (WESTSIDE CITIES)
Hon. Bev Perry, *Past President* (OCCOG)
Hon. Greg Pettis (CVAG)
Hon. Bea Proo (GATEWAY CITIES)
Hon. Ron Roberts, *President* (WRCOG)
Hon. Deborah Robertson, *Chair, CEHD* (SANBAG)
Hon. Sid Tyler (SGVCOG)
Hon. Dennis Washburn (LVMCOG)
Hon. Toni Young, *2nd Vice President* (VCOG)
Hon. Bob Yousefian (ARROYO VERDUGO)

Regional Council Members to Policy Committees

To TCC:

Hon. Jim Aldinger, Manhattan Beach
Hon. Thomas Buckley, Lake Elsinore

Subregional Representatives to Policy Committees

From CEHD to TCC

Hon. Don Szerlip, Redondo Beach, representing South Bay Cities

To EEC:

Hon. Art Yoon, Hermosa Beach, representing South Bay Cities

Benchmarks Task Force (Held over)

Fernando Guerra, Loyola Marymount University

Goods Movement Advisory Committee

Hon. Lou Bone, Tustin

Maglev Task Force (Held over)

Ron Bates, Private Citizen

Raven Lopez-Workman, consultant to Morongo Band of
Mission Indians

Water Policy Task Force

Hon. Steve Adams, Riverside

Regional Transportation Agencies' Coalition

Hon. Richard Dixon, Lake Forest (*Delegate*)

3.4 EXECUTIVE DIRECTOR'S REPORT

Mark Pisano stated that his report was sent via email. The report outlined work accomplished during the month. He announced the focus of the RC meeting is the Regional Transportation Improvement Program (RTIP) which will be addressed during the TCC report.

With regard to TEA-21 Reauthorization, prior to going into recess Congress passed an extension to TEA-21. Mr. Pisano stated that this extension was not as simple to arrive at as previous ones. The highway program was extended until September 24th, while transit and safety programs were extended through September 30th. The reason for the difference is to allow Congress time before the end of the fiscal year to address high priority project funding and how lower funding amounts will affect Minimum Guarantees. Based on FY 2004 revenue data, about \$400 million may be included in the next extension to raise donor states, including California, to the 90.5% minimum guarantee for the year. This could mean an additional \$33.7 million for the State.

FY 2004 Federal Appropriations – The House Subcommittee on Transportation has “marked up” or revised its FY 2005 Appropriations bill. The bill provides more than \$89.9 billion in transportation funding. Regarding projects listed on the Regional Consensus Appropriations Request list, the only project that received an earmark was the LACMTA Eastside Light Rail Transit Project for \$60 million. This is because no highway projects were earmarked.

4.0 ACTION ITEMS

4.1 Administration Committee Report

4.1.1 FY 2005-2006 Overall Work Program (OWP) Schedule

Councilmember Dixon, Chair stated that the Administration Committee recommended approving the schedule with the following conditions

- Include a management summary of what is in the OWP including where money is placed.
- Include a matrix for quick reference

The recommendation was MOVED (Dixon), SECONDED (Perry) and UNANIMOUSLY APPROVED

- 4.1.2 Authorize Executive Director to terminate TranStar License Agreement with the Partnership and enter into appropriate agreements including a MOU with the CTCs to finally dispose of the Rideshare and TranStar programs and assets

Additionally, the MOU is to include provisions recognizing the ability of the Partnership to provide uninterrupted services under existing contracts.

It was MOVED (Dixon), SECONDED (Lowe) and UNANIMOUSLY APPROVED.

4.2 Transportation & Communications Committee (TCC) Report

4.2.1 Draft 2004 Regional Transportation Improvement Program (RTIP)

Hasan Ihkrata, Director, Planning & Policy stated that staff provided presentations to the Executive Committee as well as the Transportation and Communication Committee (TCC) on the Draft 2004 Regional Transportation Improvement Program (RTIP). Although staff initially anticipated an August adoption of the 2004 RTIP by the RC, additional issues concerning full funding and constructability of Transportation Control Measure (TCM) projects were identified by staff; specifically, nine projects were in question.

Additionally, the Federal Highway Administration (FHWA) submitted a letter questioning funding and implementation issues with respect to TCMs.

Mr. Ihkrata stated that in order to respond to the FHWA's concerns and to work with the SCAG region's local county transportation commissions, staff had requested additional time to resolve these issues. If short-term funding issues are not resolved by September 2, staff would not be able to recommend approval of the 2004 RTIP. The short term strategy is to reprioritize the funding of projects within each county as may be necessary. Some of the longer-term strategies include the following:

(1) Assess the possibility of transportation fund loan arrangements between counties (note: RTAC opposes this strategy); (2) Coalesce the region to seek transportation dollars through the federal appropriations process; (3) Address the state's North/South allocation of funds to ensure the SCAG region's fair share of transportation dollars; (4) Focus on local ballot initiatives to fund transportation projects, including the imposition of ½ cent sales tax measures as may be necessary (ie. Los Angeles County SB314; Orange County's Measure M expires 2011); (5) Support design/build arrangements and/or emergency procurement procedures as appropriate; and (6) Consider substitution of projects as may be necessary.

The TCC recommended that additional time be allowed to conduct inter-agency consultation for further analyses of funding and timely implementation issues as well as to pursue regional strategies for overcoming these obstacles. Further, staff would need time to respond appropriately to the FHWA's concerns about financial constraint and project completion schedules.

The recommendation was MOVED (Baldwin), SECONDED (Brown) and UNANIMOUSLY APPROVED.

Councilmember Lowe presented comments from the RTAC. She stated that the RTAC met last week to review the RTIP conformity issues. She indicated that all counties were represented except for Los Angeles. Councilmember Lowe noted RTAC members frustration over MTA not being represented. RTAC would not make specific recommendations on the RTIP. She stated that the RTAC was requesting that RTAC meet at the next CEO meeting on August 20th, and that each CTC and SCAG have elected official leadership at that meeting.

4.3 Energy & Environment Committee (EEC) Report

4.3.1 Resolution on Building Energy Efficiency

Continued for one month.

4.4 Community & Human Development Committee (CEHD) Report

4.4.1 Victor Valley Redevelopment Agency Housing Setaside Review

Councilmember Robertson, Chair, reported that state law requires SCAG to review findings when a local redevelopment agency defers housing setaside funds as has been requested by the Victor Valley Economic Development Agency. She stated the CEHD Committee recommended that the Regional Council adopt Resolution 04-453-2 approving the findings in deferring housing setaside funds.

It was MOVED (Robertson), SECONDED (Brown) and UNANIMOUSLY APPROVED to waive reading and adopt Resolution 04-453-2.

4.5 Communication Task Force Report

4.5.1 Revised Communications Strategy

Councilmember McCarthy reported that the Communications Task Force reviewed the revised Communications Strategy. The strategy ensures that key messages, target audiences and major SCAG initiatives reflect organizational objectives. The revisions focused on a more integrated communications program. Environmental justice groups, Native American Tribal Councils, county transportation commissions, subregions and trade

associations have specifically been added to the list of target audiences. He stated that the Communications Task Force recommended approval of the revised Communications Strategy

It was MOVED (McCarthy) SECONDED (Proo) and UNANIMOUSLY APPROVED.

5.0 INFORMATION ITEMS

5.1 Monthly Financial Report

Heather Copp, CFO, stated that the June report as well as August was included in the agenda. She also reported that SCAG has a positive cash flow.

5.2 Report on Professional Pathways

Debbie Dillon, Human Resources, presented a power point on Professional Pathways. Basically the program provides for interim replacements for incumbent Executive Management, opportunities to develop internal candidates so they are competitive for future vacancies, specific rotational and/developmental assignments to address the technical, administrative and leadership needs of the organization.

5.3 Federal & State Legislative Update

Don Rhodes, Manager, Government Affairs, presented a brief report on the following items:

Reauthorization of TEA-21 & Federal Appropriations

He reported that another two-month extension of TEA-21 is expected prior to the congressional recess. The FY05 Appropriations bill for transportation is expected to be folded into an Omnibus Appropriations Act, as has been done in recent years. SCAG continues to advocate for a higher rate of return to the state in the reauthorization measure, among other issues, and for the Regional Consensus projects in the appropriations bill.

Innovative Financing & Project Delivery

Also at both state and federal levels, SCAG is pursuing legislation to facilitate the use of private financing and expedited project delivery for regional transportation projects, which is germane to SCAG's need for innovative financing as proposed in the Regional Transportation Plan (RTP). Experts in federal tax financing have drafted language for SCAG on Transportation Infrastructure Finance Initiative Act (TIFIA) and tax credit financing; SCAG's Washington representatives are advocating for inclusion of the language in the reauthorization of TEA-21 or S. 1637 (Grassley). SCAG's Sacramento representatives are working on the Regional Investment in Goods Movement, Highways, and Transit Act (RIGHT).

The RIGHT proposal is expected to be part of the discussion of a conference committee expected when SB 1210 (Torlakson), SB 1793 (McPherson) and AB 3048 (Oropeza) are finalized in a joint conference.

Tribal Gaming Compacts & Prop 68 & 70

There are two ballot initiatives on tribal gaming. Propositions 68 and 70 are drafted in a way that, if passed by voters, will void Governor Schwarzenegger's signed compact with the Indian tribes. Transportation stakeholders are concerned about the possibility the signed compact will be negated because its proceeds are to be used to repay amounts borrowed in recent years from dedicated transportation funds to bolster the General Fund. Propositions 68 and 70 do not backfill transportation funds and may merit further consideration by the Regional Council this summer.

MTA noted their opposition to the Right Bill. OCTA staff noted they had concerns as well.

6.0 FUTURE AGENDA ITEMS

Councilmember Washburn requested that financing strategies for local governments be agendized within the next 3-6 months. There was also a request that policies regarding supporting events be presented to the Regional Council.

7.0 LEGAL COUNSEL REPORT

7.1 Closed Session

It was MOVED (Perry), SECONDED (Dixon) and UNANIMOUSLY APPROVED enter into closed session.

The Regional Council reconvened. In open session.

- SCAG v. HCD & BT&H
Conference with Legal Counsel - existing litigation to be heard in closed session in pursuant to California Government Code Section §54956.9(a)
A report was given but no action was taken.
- HDR Appeal
Conference with Legal Counsel – anticipated litigation
Significant exposure to litigation pursuant to California Government Code Subdivision C §54956.9
(one potential case)
No report was given in closed session.

- Morrison v. SCAG
Conference with Legal Counsel Government Code
section 54956.9(a) Morrison v. Southern California
Association of Governments et al. Superior Court,
Los Angeles County, Case No. BC 312066
No report was given in closed session.

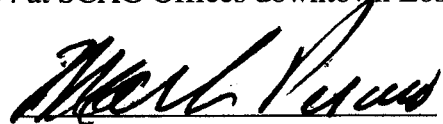
9.0 ANNOUNCEMENTS

There were no announcements at this time.

10.0 ADJOURNMENT

The meeting was adjourned in memory of Joanne Freilich, a past employee of SCAG and former Director of UCLA Extension Public Policy Program.

The next meeting is scheduled for September 2, 2004 at SCAG Offices downtown Los Angeles.


Mark Pisano, Executive Director

REPORT

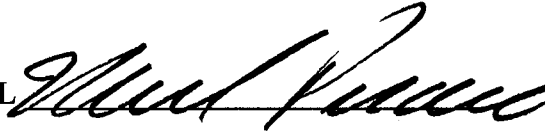
TO: Administration Committee
Regional Council

FROM: Sam Mehta, Contracts Manager (213) 236-1813
Email: mehta@scag.ca.gov

SUBJECT: Approval of Contracts Over \$25,000

DATE: August 9, 2004

EXECUTIVE DIRECTOR'S APPROVAL



RECOMMENDED ACTION: Approve Contracts

SUMMARY:

- **The Following Consultant Contracts are Recommended for Approval:**

Managing Excellence Consulting Services	NTE \$ 150,000
University of Southern California	NTE \$ 120,000
- **The following Subregional Consultant Contract is Recommended for Approval:**

Kaku Associates	NTE \$ 49,999
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FISCAL IMPACT:

The Work Element is listed on the detail page for each contract. Included is the Work Element and category of funding, for example FHWA, FTA, indirect.



CONSULTANT CONTRACT

Consultant: Managing Excellence Consulting Services (MECS)

Scope: The Consultant will provide on going AIX modeling support.

The Consultant will work with staff to modify software source code as needed; develop utility programs for the modeling sequence; resolve Modeling staff's technical questions; maintain the UNIX System Administration; and upgrade the AIX operating software and conversion of programs and utilities to the next generation modeling system.

Contract Amount: Total not to exceed (3-years) \$150,000
MECS (prime) \$150,000 (\$50,000/year)
(No subcontractor)

Contract Period: October 1, 2004 through June 30, 2007

Work Element: 05-840.SCGS1 ..\$ 50,000 (Funding source: Indirect Overhead)
0X-XXX .. \$100,000 (Funding source: Indirect Overhead,
subject to approval of SCAG's
future budgets)

Request for Proposal: SCAG staff mailed postcards to 32 pre-qualified firms on SCAG's bidders list to notify them of the release of RFP No. 05-019. The RFP was also posted on SCAG's web site. One proposal was received in response to the solicitation:

Managing Excellence Consulting Services \$150,000

Selection Process: The Proposal Review Committee (PRC) evaluated the proposal in accordance with the criteria set forth in the RFP, and the selection process was conducted in a manner consistent with all applicable Federal and State contracting regulations.

The PRC was comprised of the following individuals:

Chao Wei, Modeling Manager, Caltrans, Dist. 7
Deng Bang Lee, Manager of Modeling, SCAG
Teresa Wang, Senior Modeling Analyst, SCAG
Guoxiong Huang, Senior Modeling Analyst, SCAG

Basis for Selection:

The PRC recommends Managing Excellence Consulting Services (MECS) for the contract award because of MECS's unique and unsurpassed skills in the area of AIX modeling support, successful completion of numerous similar projects, impressive responses to the questions during the interview, and excellent past performance and track record on modeling exercises and deliverables. In addition, the PRC was very pleased with MECS's reputation for completing work ahead of schedule. MECS has provided these services to SCAG for the past three years.

Memo to File

Since only one proposal was received, SCAG Contract staff conducted a random survey of the potential bidders who were sent notification of the RFP release. Following responses were received and documented:

(Names of the firms surveyed are not displayed to maintain their privacy)

Firm #1 - Left voice mail. No one returned the call.

Firm #2 - They normally do receive SCAG RFP postcards but did not remember receiving this one. Verified address and other information which was correct in SCAG's SAP vendor database.

Firm #3 - They did not receive the postcard because they have recently moved. Postcard "returned to sender." Company has merged with other firm and firm's name has changed. Staff sent them new vendor application form to update the vendor database.

Firm #4 - Left voicemail. No one returned the call.

Firm #5 - Received RFP post card but this type of work is out of scope for their expertise and knowledge base.

Firm #6 - Phone number no longer in service. Postcard "returned to sender."

Firm #7 - They received RFP postcard but their company is located outside of California and too far away to support this kind of work for this amount of money.

Based on the above survey result, staff determined that re-releasing the RFP may not yield additional proposal due to the highly technical and specialized nature of work. Scope of work also requires Consultant to visit SCAG office two to three times a week to perform the services for which budget is relatively small. Staff recommends the contract award to MECS.

CONSULTANT CONTRACT

Consultant: University of Southern California (USC)

Scope: The selected institution will provide student interns on a daily basis to assist SCAG's GIS staff in responding to internal staff requests and other projects of Overall Work Program (OWP). Duties include but are not limited to the creation of maps, editing of large databases, geocoding data, spatial data analysis, data conversion, as well as urban planning assignments.

Contract Amount: **Total not to exceed (3 Years)** **\$120,000**
USC \$120,000 (\$40,000/year)
(no subcontractor)

Contract Period: October 1, 2004 through June 30, 2007 (Three Years)

Work Element: 05-040.SCGC1\$40,000 (Funding Sources: Consolidated Planning Grant – FTA & TDA)
0X-XXX\$80,000 (Funding Sources: Consolidated Planning Grant – FTA & TDA, subject to Approval of SCAG's future budgets.)

Request for Proposal: SCAG staff mailed postcards to the five local universities and colleges to notify them of the release of RFP No. 05-018. The RFP was also posted on SCAG's web site. The following proposal was received in response to the solicitation:

USC (no subcontractor) \$120,000 (3-years)

Selection Process: The Proposal Review Committee (PRC) evaluated the proposal in accordance with the criteria set forth in the RFP, and the selection process was conducted in a manner consistent with all applicable Federal and State contracting regulations. Interview was held with the offeror.

The PRC was comprised of the following individuals:

Shahab Rabbani, Project Manager, SCAG
Richard Mader, Lead GIS Analyst, SCAG
Paul Burke, Senior Transportation Analyst, SCAG
Pablo Gutierrez, Project Manager, SCAG
David Sosa, Chief, Regional Planning and LARTS, Caltrans Dist. 7

Basis for Selection:

The PRC recommends University of Southern California (USC) for the contract award because of USC's innovative approach to project management, impressive responses to the questions posed during the interview, and excellent past performance record. USC's GIS Lab has the capability to train students on site and provides a consistent level of student interns support at SCAG's downtown office throughout the contract period. The USC project coordinator will be the primary person responsible for the recruitment, retention, and replacement of student interns. The USC GIS Lab's Ph.D. students have extensive experience of ESRI software. USC presentation received high evaluation scores from the PRC. USC also provided student interns services to SCAG for past three years.

Initial contract will be awarded for one-year period with an option to renew for additional two years (total three years).

Memo to File

Since only one proposal was received, SCAG Contract staff surveyed all of the four potential bidders who were sent notification of the RFP release but did not submit the proposal.

Following responses were received and documented:

(Names of the Colleges and University surveyed are not displayed to maintain their privacy)

Institution #1 – They do not recall receiving the RFP post card. It was verified that post card was mailed to the correct address including appropriate department name.

Institution #2 – Due to the summer, no students are on campus, would not respond during this time of the year.

Institution #3 – Left voice mail, no response provided.

Institution #4 – Left voice mail, no response provided.

Based on the above survey results, staff determined that re-releasing RFP may not yield additional proposal. Also USC's geographical location and close proximity to downtown SCAG office allows student interns to travel using 'DASH' shuttle with-in minutes during their regular semester. Other campuses were located about 20 to 30 miles away from SCAG, which may pose a challenge for student to travel on a regular basis. USC has successfully provided these services for the past three years. This project is mainly for the mutual benefit rather than for receiving any huge financial gain. Staff recommends this contract award to USC.

SUBREGIONAL CONSULTANT CONTRACT

Consultant: Kaku Associates

Scope: The Consultant will work cooperatively with Caltrans, LADOT, LACMTA, and the public utilizing a Project Steering Committee (PSC) to develop a series of analyses of current conditions and future improvements in and around the I-10/Robertson intersection with the goal of facilitating multi-modal connections. This work is intended to build upon the 2004 Westside Mobility Study and lay the groundwork for inclusion in the next Regional Transportation Plan and in MTA's Long Range Transportation Plan.

Contract Amount:

Total not to exceed	\$49,999
Kaku and Associates (prime)	\$39,499
Nelson/Nygaard (subcontractor)	\$10,500

Contract Period: September 2004 through June 30, 2005

Work Element: 05-060.WSTC1 \$ 49,999 (Funding source: FTA)

Request for Proposal: SCAG staff mailed postcards to 240 pre-qualified firms on SCAG's bidders list to notify them of the release of RFP No. 05-021. The RFP was also posted on SCAG's web site. The following two proposals were received in response to the solicitation:

Aztec Engineering (1 subcontractor)	\$49,996
Kaku and Associates (1 subcontractor)	\$49,999

Selection Process: The Proposal Review Committee (PRC) evaluated both proposals in accordance with the criteria set forth in the RFP, and the selection process was conducted in a manner consistent with all applicable Federal and State contracting regulations. Interviews were held with both offerors.

The PRC was comprised of the following individuals:

Ellen Gelbard, Assistant Director, Planning and Community Development, Westside Cities, City of Santa Monica
Alexandra Howard, Assistant Planner, Westside Cities, City of Culver City,
Aaron Kunz, Deputy Director/Transportation, Westside Cities, City of Beverly Hills

Dennis Woods, Transportation Planner, Westside Cities, City of
West Hollywood,
Liberty San Agustin, Transportation Planner, Caltrans Dist. 7
Anthony Loui, Project Manager, LACMTA
Jay W. Kim, City of Los Angeles
Sina Zarifi, Senior Regional Planner, SCAG

Basis for Selection:

The PRC recommends Kaku Associates (Kaku) for contract award because of Kaku's familiarity with the project area and surrounding conditions, as demonstrated by their completion of the Westside Mobility Study for the nascent Westside Cities COG last year. They have successfully completed numerous similar projects, including LACMTA Community Linkage studies along the Pasadena Gold Line and in Little Tokyo. Kaku also gave impressive responses to the questions posed during the interview and they have an excellent past performance record.

Kaku demonstrated a thorough understanding of one of the Westside Cities' main goals, which is to identify discrete projects in the vicinity of the I-10/Robertson intersection that can be included in next Regional Transportation Plan and in MTA's Long Range Transportation Plan.

REPORT

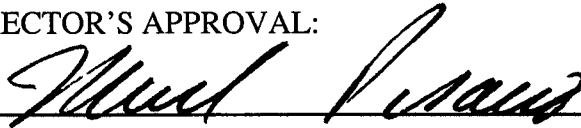
DATE: August 12, 2004

TO: The Administration Committee
The Regional Council

FROM: Heather Copp
Chief Financial Officer/DBE Liaison Officer

SUBJECT: Approval of SCAG's DBE Program Policy Statement

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION:

Approve SCAG's DBE Program Policy Statement

BACKGROUND:

SCAG has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. SCAG has received Federal assistance from the Department of Transportation, and as a condition of receiving this assistance, SCAG has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of SCAG to ensure that DBEs, defined in 49 CFR part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also SCAG's policy:

- To apply the DBE Program to all DOT projects.
- To be committed to carry out all DBE requirements.
- To assure that all contracts/ procurements are administered without discrimination on the basis of race, color, national origin or sex.
- To ensure that all DBEs have an equal opportunity to compete and participate in performance of all contracts and subcontracts.

FISCAL IMPACT: 

There will be costs associated with DBE outreach and advertisement of public notices.

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS
DBE PROGRAM POLICY STATEMENT

Section 26.2, 26.23 Objectives/Policy Statement

The Southern California Association of Governments (SCAG) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. SCAG has received Federal assistance from the Department of Transportation, and as a condition of receiving this assistance, SCAG has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of SCAG to ensure that DBEs, defined in 49 CFR part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also SCAG's policy:

- To apply the DBE Program to all DOT projects.
- To be committed to carry out all DBE requirements.
- To assure that all contracts/ procurements are administered without discrimination on the basis of race, color, national origin or sex.
- To ensure that all DBEs have an equal opportunity to compete and participate in performance of all contracts and subcontracts.

SCAG's goals are:

1. To ensure nondiscrimination in the award and administration of DOT- assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. To assist the development of firms that can complete successfully in the market place outside the DBE program.

SCAG's Chief Financial Officer has been delegated as the DBE Liaison Officer. In that capacity, the Chief Financial Officer is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by SCAG in it's financial assistance agreements with the Department of Transportation.

SCAG has disseminated this policy statement to SCAG's Regional Council and all of the components of the organization. We have distributed this statement to the DBE and non-DBE business communities that perform work for SCAG on DOT-assisted contracts through U.S. mail.

Mark A. Pisano, Chief Executive Officer

Date

000020

REQUIREMENTS

Section 26.1 Objectives

The objectives are found in the policy statement on the first page of this program.

Section 26.5 Definitions

The terms used in this program have the meanings defined in 49 CFR 26.5.

Section 26.7 Non-Discrimination Requirements

SCAG will never knowingly exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering the DBE program, SCAG will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

SCAG will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidders list will include the name, address, DBE/non DBE status, age, and annual gross receipts of the firms.

Section 26.13 Federal Financial Assistance Agreement

SCAG makes the following assurance as applicable to all DOT assisted contracts and their administration as part of the program supplement agreement for each project.

SCAG shall not discriminate on the basis of race, color, and national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated in reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to SCAG of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Contract Assurance: 26.13(b)

SCAG will ensure that the following clause is placed in every DOT assisted contract and subcontract.

The Consultant and its subconsultant(s) shall comply with Title VI of the Civil Rights Act of 1964, as amended, and with the regulations relative to Title VI, (nondiscrimination in federally-assisted programs of the United States Department of Transportation, 49 C.F.R Part 21 and 23 C.F.R. Part 200; hereinafter referred to as "DOT regulations") and 49 C.F.R Part 26, which are herein incorporated by reference and made a part of this Agreement.

Section 26.21 DBE Program Updates

SCAG will annually carry out this program until a new goal setting methodology is established, or until significant changes to this DBE program are adopted. SCAG will provide DOT updates representing significant changes in the program.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

The following individual is designated as SCAG's DBE Liaison Officer:

Heather Copp, CFO/DBELO
818 W. Seventh St., 12th Floor
Los Angeles, CA 90017
tel: (213) 236-1870
fax: (213) 236-1825
copp@scaq.ca.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that SCAG complies with all provisions of 49 CFR Part 26. Heather Copp has direct, independent access to the Executive Officer, Mark A. Pisano, concerning DBE program matters. The DBELO has one support personnel who devotes a portion of work time to the DBE program. An organization chart displaying the DBELO's position in the organization is found in Attachment A to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathering and reporting statistical data and other information as required by DOT.
2. Reviewing third party contracts and purchase requisitions for compliance with this program.
3. Working with all departments to set overall annual goals.
4. Ensuring that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifying contracts and procurements so that DBE goals are included in solicitations, and monitors results.
6. Analyzing SCAG's progress toward goal attainment and identifying ways to improve progress.
7. Advising SCAG's Executive Director and Regional Council on DBE matters and achievements.

8. Participating with legal counsel and project managers to determine contract compliance with good faith efforts.
10. Planning and participating in DBE training seminars, if necessary
11. Acting as liaison to the Uniform Certification Process in California.
12. Providing outreach to DBE's and community organizations to advise them of opportunities.
13. Maintaining SCAG's updated directory on certified DBEs

Section 26.27

DBE Financial Institutions

Information on the availability of financial institutions owned and controlled by socially and economically disadvantaged individuals in the community can be obtained from the Caltrans Disadvantage Business Enterprise Program at the website noted in Section 26.31, Directory.

Section 26.29

Prompt Payment Mechanisms

SCAG will include the following clause in each DOT assisted prime contract:

The Consultant agrees to pay each subconsultant under this prime Contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the Consultant receives from SCAG. Any delay or postponement of payment for the above referenced timeframe may occur only for good cause following written approval from SCAG.

The Consultant agrees to release retention payments to each Subcontractor within 30 days after the Subcontractor's satisfactory completion of work. Any delay or postponement of payment for the referenced time frame may occur only for good cause following written approval from SCAG.

The Consultant shall not be reimbursed for work performed by a subconsultant unless and until the Consultant ensures that the subconsultant(s) are promptly paid for the work they have performed.

Section 26.31

Directory

SCAG will refer interested persons to the DBE directory available from the Caltrans Disadvantaged Business Enterprise Program website at www.dot.ca.gov/hq/bep

Section 26.33

Over-Concentration

SCAG has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35

Business Development Mechanisms

SCAG has not established a business development or mentor-protégé program. If SCAG identifies the need for such a program in the future, the rationale for adopting such a program and a comprehensive description of it will be submitted to the DLAE for approval.

Section 26.37**Monitoring and Enforcement Mechanisms**

The following monitoring and enforcement mechanisms will be taken to ensure compliance with 49 CFR part 26.

1. SCAG will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. SCAG will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. SCAG will provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. SCAG will require prime contractors to maintain records and documents of payments to DBEs for three years following the completion of the contract. Any authorized representative of SCAG or DOT will make these records available for inspection upon request. This reporting requirement also extends to any certified DBE subcontractor.
4. SCAG will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Section 26.43**Set-Asides or Quotas**

SCAG does not use quotas in any way in the administration of this DBE program.

Section 26.45**Overall Goals**

In accordance with Section 26.45(f) SCAG will submit its overall goal to Caltrans by June 1 of each year. Before establishing the final overall goal each year, SCAG will consult with the women and minority groups, and Business Chambers to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and SCAG's efforts to establish a level playing field for the participation of DBEs.

Following the consultation, SCAG will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at SCAG's principal office at 818 W. Seventh St., 12th Floor, Los Angeles, CA 90017, for 30 days following the date of the notice, and informing the public that SCAG and the DOT will accept comments on the goals for 45 days from the date of the notice. Notices will be published in various publications, including minority publications as well as SCAG's website.

SCAG's overall goal submission to the DOT will include a summary of information and comments received during this public participation process and SCAG's responses.

SCAG will begin using the overall goal during the Federal Fiscal Year upon final approval from DOT, unless other instructions are received from DOT.

Section 26.51

Contract Goals

SCAG will use contract goals to meet any portion of the overall goal SCAG does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

Contract goals will be established only on those DOT assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

We will express our contract goals as a percentage of the total amount of the DOT assisted contract.

Section 26.53

Good Faith Effort Procedures

Demonstration of good faith effort (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to part 26.

SCAG personnel will be responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

SCAG will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing to the performance of the contract by the bidder/offeror.

Information to be submitted (26.53(b))

SCAG treats bidder/offeror's compliance with good faith efforts requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit a Letter of Intent with the following information.

1. The names and addresses of DBE firms that will participate in the contract.
2. A description of the work that each DBE will perform.
3. The dollar amount of the participation of each DBE firm.
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal.
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative Reconsideration (26.53(d))

Within 15 days of being informed by SCAG that the apparent successful bidder/offeror was not responsive due to insufficient documentation of good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Justine Block, Deputy Legal Counsel
Southern California Association of Governments
818 W. Seventh St., Los Angeles, CA 90017
tel: (213) 236-1920
fax: (213) 236-1825
block@scag.ca.gov

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning this issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for the finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

SCAG will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor will be required to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the prime contractor will be required to obtain SCAG's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, SCAG's contracting office will issue an order stopping all or part of payment/ work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification to be used when a contract goal is established:

The requirements of 49 CFR part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of SCAG to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/ proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidder/ offerors, including those who qualify as a DBE. A DBE contractor goal of _____ percent has been established for this contract. The bidder/ offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment ____), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/ offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/ offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

Section 26.55

Counting DBE Participation

SCAG will count DBE participation toward overall and contract goals as provided in the contract specifications for the prime contractor, subcontractor, joint venture partner with prime or subcontractor, or vendor of materials or supplies.

Section 26.109

Information, Confidentiality, Cooperation

SCAG will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Under the Public Records Act, California Government Code 5263, SCAG is required to disclose records requested by any person. The State of California has enacted California Government Code 5263, Public Records Act. Under this law, SCAG is required to disclose, for inspection, records requested by any person. There are exceptions to this law, including the instance where opening a public record would be contrary to any federal statute or regulation. Notwithstanding any contrary provisions of state or local law, SCAG will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written permission of the submitter.

Monitoring Payments to DBEs

SCAG will require prime contractors to maintain records and documents of payments to DBEs for three years following the completion of the contract. Any authorized representative of SCAG or DOT will make these records available for inspection upon request. This reporting requirement also extends to any certified DBE subcontractor.

SCAG will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

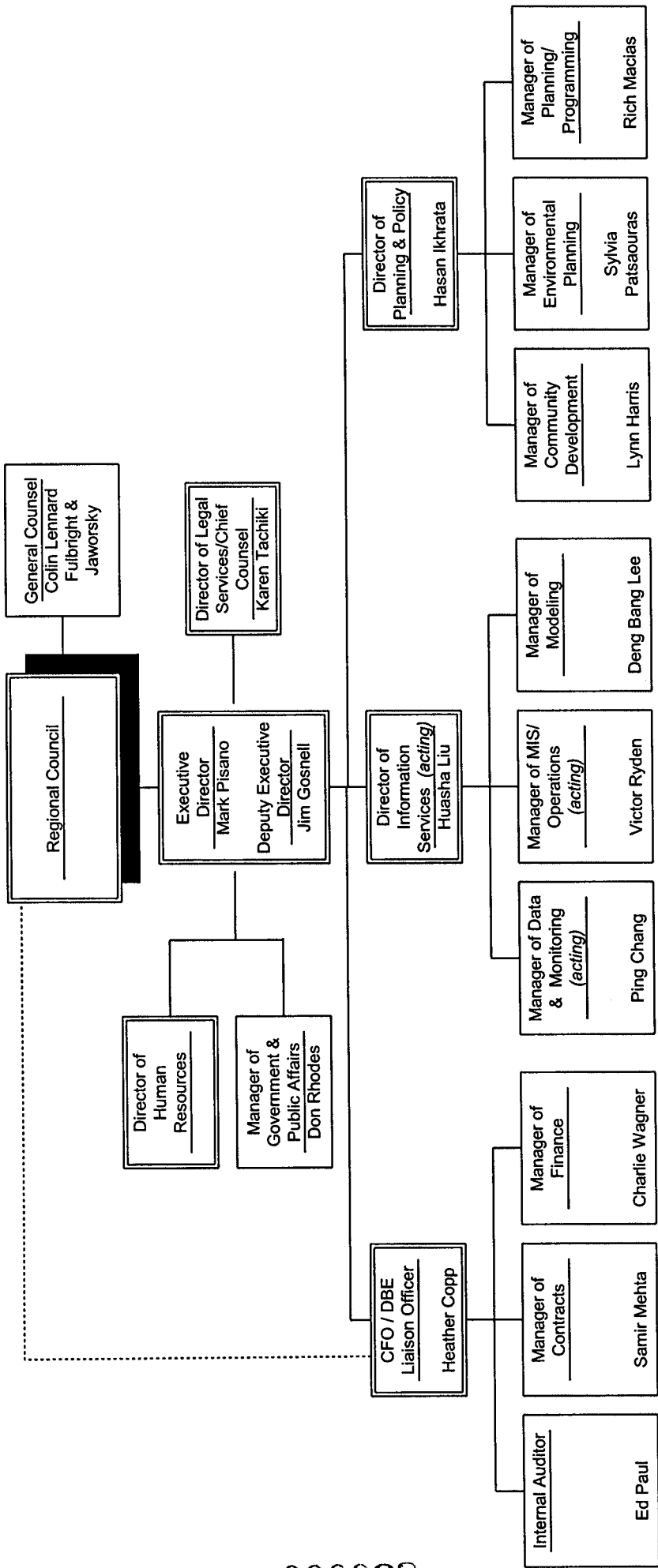
ATTACHMENTS

Attachment A:	Organizational Chart
Attachment B	SCAG Vendor/Consultant Application
Attachment C:	DBE Goal and Methodology for Federal FY 2004 – 2005
Attachment D:	Regulation: 49 CFR Part 26

ATTACHMENT A

Organizational Chart

Organizational Chart



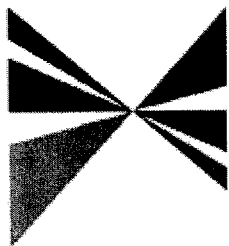
0000023



ATTACHMENT B

SCAG Vendor/Consultant Application

SOUTHERN CALIFORNIA



**ASSOCIATION of
GOVERNMENTS**

Main Office

818 West Seventh Street
12th Floor
Los Angeles, California
90017-3435

t(213) 236-1800

f(213) 236-1825

www.scag.ca.gov

SCAG VENDOR/CONSULTANT APPLICATION

All vendors and consultants interested in doing business with Southern California Association of Governments (SCAG) should have an account created in SCAG's vendor and consultant database. This enables your firm to be paid expeditiously, and to be placed on SCAG's mailing list for notification of upcoming Request for Proposals (RFPs) and Request for Quotes (RFQs).

SECTION 1. GENERAL CONTACT INFORMATION

Company Name _____

Address _____

City _____ State _____ Zip Code _____

Federal Tax ID No. (TIN) or SSN: _____

Does Your Firm Require a 1099? ☐ Yes ☐ No

Primary Contact _____

Title _____

Telephone No. _____ Fax No. _____

E-mail Address _____

Company Website Address _____

REMITTANCE ADDRESS (IF DIFFERENT FROM MAILING ADDRESS ABOVE)

Company Name _____

Address _____

City _____ State _____ Zip Code _____

Telephone No. _____ Fax No. _____

E-mail Address _____

SECTION 2. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Is your firm a Disadvantaged Business Enterprise (DBE)? ☐ Yes ☐ No (Proceed to Section 3.)

If your firm is a Disadvantaged Business Enterprise (DBE) as defined in Title 49 Part 26 of the Code of Federal Regulations, complete the required information below:

Age of Firm: _____

Annual Gross Receipts (select one):

☐ Less than \$1 Million ☐ \$5 Million – \$10 Million ☐ \$15 Million – \$17.4 Million
☐ \$1 Million – \$ 5 Million ☐ \$10 Million – \$15 Million ☐ \$17.4 Million +

A COPY OF THE FIRMS DBE CERTIFICATION MUST BE PROVIDED TO QUALIFY AS A DBE.

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Doc. Number 77736 v2 – 08/01/04

For vendors/consultants located within the Southern California region, certification must be from one of the agencies listed below.

If you believe you qualify as a DBE but are not certified, you may want to contact one of the following agencies to initiate the certification process:

DEPT. OF TRANSPORTATION (CALTRANS)

DBE Certification Unit

707 3rd Street, 1st Floor, Room 400

West Sacramento, CA 95605

Phone: (866) 810-6346 Fax: (916) 324-1862

<http://www.dot.ca.gov/>

ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA)

Small Business Programs

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

Phone: (714) 560-5620 Fax: (714) 560-5792

www.octa.net

CITY OF LOS ANGELES

Office of Contract Compliance

600 South Spring St., Suite 1300

Los Angeles, CA 90014

Phone: (213) 847-6480 Fax: (213) 847-5566

<http://www.lacity.org/bca/>

COUNTY OF ORANGE JOHN WAYNE AIRPORT

3160 Airway Avenue

Costa Mesa, CA 92626

Phone: (949) 252-5175 Fax: (949) 252-5225

<http://www.ocair.com/>

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (MTA)

Small Business Diversity and Labor Compliance

One Gateway Plaza

Los Angeles, CA 90012

Phone: (213) 922-2600 Fax: (213) 922-7660

www.mta.net

Should you have any questions when completing your certification application, you may contact Padilla & Associates, Inc. at (323) 728-8847. Padilla & Associates offers free consultation support to firms interested in highway construction projects and related contracts involving Federal funding.

SECTION 3. COMMODITY CODE/CONSULTANT PROFILE

Check all boxes of the Commodity Code/Consultant Profile that applies to your company's particular business interests or areas of expertise. Feel free to use the "Other" option and write in your own detailed description if none of the codes fully capture the essence of your work. For commodity code definitions, please refer to the attached Description of Potential Technical Service Needs.

General Goods & Services								
✓	NIGP	DESCRIPTION	✓	NIGP	DESCRIPTION	✓	NIGP	DESCRIPTION
<input type="checkbox"/>	60001	Painters	<input type="checkbox"/>	60204	Telecommunications	<input type="checkbox"/>	60720	Paper, Fine
<input type="checkbox"/>	60007	Electrical	<input type="checkbox"/>	60233	Appliances	<input type="checkbox"/>	60730	Trophies & Awards
<input type="checkbox"/>	60008	Plumbing	<input type="checkbox"/>	60400	Audio Visual Equipment	<input type="checkbox"/>	60863	Temporary Staffing
<input type="checkbox"/>	60009	Small General Contractors	<input type="checkbox"/>	60401	Audio Visual Supplies	<input type="checkbox"/>	60875	Registrations (Training/Seminars)
<input type="checkbox"/>	60016	Security Systems	<input type="checkbox"/>	60402	Video Equipment	<input type="checkbox"/>	61000	Office Supplies
<input type="checkbox"/>	60017	H V A C Contractors	<input type="checkbox"/>	60545	Moving & Storage	<input type="checkbox"/>	90640	Graphic Design Services
<input type="checkbox"/>	60030	Sound Systems & Electronics	<input type="checkbox"/>	60637	Lease – Equipment	<input type="checkbox"/>	90640.1	Image Setting
<input type="checkbox"/>	60102	Postage & Courier Services	<input type="checkbox"/>	60637.1	Lease – Building	<input type="checkbox"/>	90640.2	Premium/Promotional Items
<input type="checkbox"/>	60102.1	Postage Machines	<input type="checkbox"/>	60638	Maintenance Agreement	<input type="checkbox"/>	96600	Printing & Related Services
<input type="checkbox"/>	60104	Memberships(Professional)	<input type="checkbox"/>	60640	Copiers/Mimeo/Dupl.	<input type="checkbox"/>	96115	Catering & Concessions
<input type="checkbox"/>	60105	Subscriptions (Periodicals)	<input type="checkbox"/>	60670	Furniture – Office	<input type="checkbox"/>	96115.1	Coffee & Tea Services
<input type="checkbox"/>	60200	Computer Hardware	<input type="checkbox"/>	60700	Typewriters & Supplies	<input type="checkbox"/>	96115.2	Bottled Water
<input type="checkbox"/>	60201	Computer Software	<input type="checkbox"/>	60701	Office Machines	<input type="checkbox"/>	96618	Copying/Reproduction Services
<input type="checkbox"/>	60202	Computer Supplies	<input type="checkbox"/>	60702	Office Machine Supplies	<input type="checkbox"/>	91528	Mailing Services & Electronic Info.
<input type="checkbox"/>	60203	Computer Services	<input type="checkbox"/>	60710	Stationary Supplies	<input type="checkbox"/>		
<input type="checkbox"/>	Other							

Professional/Consulting Services								
✓	NIGP	DESCRIPTION	✓	NIGP	DESCRIPTION	✓	NIGP	DESCRIPTION
<input type="checkbox"/>	60012	Architects, Engineer	<input type="checkbox"/>	91840	Employee Benefits Consulting	<input type="checkbox"/>	91892.1	Growth Visioning Planning
<input type="checkbox"/>	90868	Project Management	<input type="checkbox"/>	91843	Environmental Consulting	<input type="checkbox"/>	91893	Security/Safety Consulting
<input type="checkbox"/>	91804	Accounting/Auditing/Budgeting	<input type="checkbox"/>	91846	Feasibility Studies	<input type="checkbox"/>	91894	Traffic Consulting
<input type="checkbox"/>	91804.1	Organizational, Financial, & Performance Audits/Project Management Services	<input type="checkbox"/>	91849	Finance/Economic Consulting	<input type="checkbox"/>	91895	Telecommunications Consulting
<input type="checkbox"/>	91806	Administrative Consulting	<input type="checkbox"/>	91858	Government Consulting	<input type="checkbox"/>	91896	Transportation Planning Consulting
<input type="checkbox"/>	91806.1	Administrative Services	<input type="checkbox"/>	91858.1	Government Relations	<input type="checkbox"/>	91896.1	Highway Corridor Analysis
<input type="checkbox"/>	91812	Modeling-Analytical Studies & Surveys	<input type="checkbox"/>	91858.2	Institutional Analysis	<input type="checkbox"/>	91896.2	Rail Planning & Analysis
<input type="checkbox"/>	91812.1	Survey and Data Collection	<input type="checkbox"/>	91863	Housing Consulting	<input type="checkbox"/>	91896.3	Transit & Non-motorized Planning & Analysis
<input type="checkbox"/>	91812.2	Travel Demand Model Improvement	<input type="checkbox"/>	91865	Human Relations Consulting	<input type="checkbox"/>	91896.4	Transportation Management & Coordination
<input type="checkbox"/>	91812.3	Geographic Information System	<input type="checkbox"/>	91866	Human Resources Consulting	<input type="checkbox"/>	91896.5	Truck Lane Analysis/Goods Movement
<input type="checkbox"/>	91812.4	Software Support for Studies & Surveys	<input type="checkbox"/>	91866.1	Executive Search	<input type="checkbox"/>	91896.6	Transportation Financing
<input type="checkbox"/>	91812.5	Regional Data Systems	<input type="checkbox"/>	91866.2	Insurance Broker Services	<input type="checkbox"/>	91896.7	Transportation & Economic Development
<input type="checkbox"/>	91817	Aviation Consulting	<input type="checkbox"/>	91874	Legal Consulting	<input type="checkbox"/>	91896.8	Transportation Investment Analysis
<input type="checkbox"/>	91826	Communications: Public Relations Consulting	<input type="checkbox"/>	91874.1	Legislative Services	<input type="checkbox"/>	91896.9	Transportation Modeling Support
<input type="checkbox"/>	91828	Computer Hardware Consulting	<input type="checkbox"/>	91874.2	Alternative Dispute Resolution	<input type="checkbox"/>	91897	Gas, Water, Electric Consulting
<input type="checkbox"/>	91828.1	Computer Service Center	<input type="checkbox"/>	91875	Management Consulting	<input type="checkbox"/>	91897.1	Air Quality Planning & Modeling
<input type="checkbox"/>	91829	Computer Software Consulting	<input type="checkbox"/>	91875.1	Organization & Staff Development	<input type="checkbox"/>	91897.2	Water Supply Analysis
<input type="checkbox"/>	91829.1	Information Systems	<input type="checkbox"/>	91876	Marketing Consulting	<input type="checkbox"/>	96175	Translation Services
<input type="checkbox"/>	91829.2	Unix Systems Support	<input type="checkbox"/>	91876.1	Social Economic Impact Analysis	<input type="checkbox"/>		
<input type="checkbox"/>	91829.3	Macintosh Computer Technical Support	<input type="checkbox"/>	91876.2	Social Justice/Equity Analysis	<input type="checkbox"/>		
<input type="checkbox"/>	91837	Economy Analysis Consulting	<input type="checkbox"/>	91879	Minority & Small Business Consulting	<input type="checkbox"/>		
<input type="checkbox"/>	91838	Education & Training Consulting	<input type="checkbox"/>	91883	Organizational Development Consulting	<input type="checkbox"/>		
<input type="checkbox"/>			<input type="checkbox"/>	91885	Personnel/Employment Consulting	<input type="checkbox"/>		
<input type="checkbox"/>			<input type="checkbox"/>	91892	Urban Planning Consulting	<input type="checkbox"/>		
<input type="checkbox"/>	Other							

SECTION 4. SIGNATURE & APPLICATION SUBMISSION INFORMATION

Name _____ Title _____

Signature _____ Date _____

MAIL OR FAX THE COMPLETED APPLICATION (PAGES 1 THROUGH 3) TO:

Audrey Roa
Southern California Association of Governments (SCAG)
818 W. Seventh St., 12th Floor
Los Angeles, CA 90017-3435

Fax: (213) 236-1825

Questions regarding the application may be directed to:

Laura Aguilar (213) 236-1922 aguilarl@scag.ca.gov
Sandee Scott (213) 236-1974 scottss@scag.ca.gov

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DESCRIPTION OF POTENTIAL TECHNICAL SERVICE NEEDS

Transportation Planning - 91896

Transportation planning experience including non-motorized, transit, highways, aviation and engineering (related to transportation policy/planning), and advanced technology. Ability and experience in conducting highway and transit network analysis and modeling and drawing conclusions from the analysis. Experience in conducting analysis of new transportation technologies. Experience in transportation demand management planning.

Institutional Analysis – 91858.2

Understanding and experience in analyzing and developing governmental mechanisms for establishing joint powers agreements and cooperative financial arrangements, i.e., Memorandum of Understanding, mitigation contracts, mutual service agreements, etc.

Finance/Economics Consulting - 91849

Experience and knowledge of uniform cost estimating, financial forecasting and the ability to perform financial analysis of alternative proposals particularly in the areas of transportation, housing, commercial, industrial and public facilities.

Surveying, Public Opinion Polling and Market Analysis - 91876

Experience and knowledge in developing survey questionnaires, ascertaining specific survey methodologies and sample sizes, and administering public opinion, attitudinal, and behavioral characteristic surveys. Experience in cost and price, service and market demand assessment particularly in areas relating to transportation services. Experience in conducting focus groups.

Social Economic Impact Analysis – 91876.1

Experience in applying input/output model to analyze the social economic impacts of SCAG policies, plans, and programs.

Social Justice/Equity Analysis – 91876.2

Experience in assessing tax burdens, policy/plan impacts/costs/benefits and their allocations among income/ethnic/age/gender etc. groups.

Economic Analysis Consulting – 91837

Experience in examining and reporting on the Southern California economy and constructing/developing model to assess how business will respond to public policies.

Growth Management Planning – 91892.1

Experience in generating growth management strategies, and in investigating, writing reports and working with cities and committees on this subject.

Growth Visioning Planning – 91892.1

Experience in coordination and development of a growth visioning plan from a regional and sub regional perspective. Consultants must demonstrate expertise in simultaneous levels of performance with conceptual understanding of the complexities of such a plan.

Environmental Analysis - 91843

Environmental planning analysis including impact analysis and the development of mitigation measures, with experience in preparing EIR/EIS for complex transportation projects and technical development proposals. Firms experienced in Air Quality Modeling & Analysis, Noise modeling & Analysis, NEPA, CEQA, Clean Water Act (CWA) section 401 & 404, Environmental Impact Report, Endangered Species Act (ESA), Aviation Planning, Air Space Study & Aviation Regulations.

Information Systems – 91829.1

Experience in one or more of the following areas including design and development of complex software products, data base design, and web site design and programming.

Regional Data Systems – 91812.5

Ability and experience in the following areas including development of small area (census tract and transportation analysis zones) forecasts and estimate methods, development of Geographic Information System ARC INFO topologies and related data bases from aerial photography and planning maps, development of site specific employment files. Ability to provide employer site file with employment estimates and individual code identification of all work sites.

Transportation Modeling Support – 91896.9

Firms experienced in travel demand models, experienced in travel surveys, and software related to travel demand models. Firms familiar with the transportation planning process. Firms experienced with GIS interface, trip generation, trip distribution, mode choices and traffic assignment, impact analysis, GIS Arcview, Arcinfo, database management, GIS web applications, and GIS database,

Unix Systems Support – 91829.2

Unix systems administrations, system programming, software development, and software maintenance.

Rideshare Contractor and Rideshare Software Support – 91896.10

Consultant performs systems analysis and software development services for the Information Services Department, Rideshare Operation to maintain and enhance existing carpool matching and transit itinerary software.

Support Services**Assistance in Providing the Following Operational Administrative Services – 91806.1:**

Including Word Processing, Reproduction, Data Entry and Verification.

Assistance in Developing Data Base Computer Programs in Support of SCAG's Management Information Systems – 91829.1**Architect/Engineering Services - 60012**

Office space planning and construction.

Graphic Support Services - 90640

Provide freelance graphic designers and production artist for purpose of staffing Graphics Unit during overload periods or when regular staff is out due to vacations, sick leave or personal days. Projects include publications, maps and presentations. Must be knowledgeable in major Macintosh Graphics programs including Illustrator, Quark and PhotoShop.

Macintosh Computer Technical Support – 91829.3

Provide technicians to troubleshoot conflicts/problems with software and hardware for (5) Macintosh workstations and a main server for the Graphics Unit. Must be able to set up new workstations, install new software and make recommendations for upgrades/enhancements. Must be available on short notice.

Printing Services - 96600

High quality offset lithography printing of publications including newsletters, posters, brochures, premium items, letterhead, envelopes, business cards, reports, presentation folders to name a few. Vendor must be able to accept digital files from the Macintosh. Computer to plate or Direct to Plate print proofing preferred (this process avoids costly film or matchprint proofing).

Premium/Promotional Items – 90640.2

Provide imprinting of graphics on premium items for special events or promotions. Some of these items include cups, mugs, t-shirts attached cases to name a few. Vendor must also supply product for imprinting.

Imagesetting – 90640.1

Vendors to provide 35 mm slide output, Iris Prints and large digital scans of artwork. Other services include Film Processing, Award Plaque production, Framing, Photo shoots-freelance photographer, Mounting/Lamination of Posters, and Royalty-free Stock Photos

Legislative Services – 91874.1

Experience with legislative analysis and advocacy particularly at the State and Federal level.

Government Relations – 91858.1

Experience working with elected officials and staff in information exchange and policy development.

Public Communications - 91826

Experience and knowledge in the techniques of effective public communications and designing collaborative outreach programs for specific work effort.

Organization and Staff Development - 91883

Services in staff development and training including managerial strategic planning, organizational analysis, individual and group coaching/interventions and onsite custom seminar planning in a variety of areas including communication, interpersonal skills, wellness, personal development, and technical skills. Experience in the public sector is desirable.

Organization, Financial and Performance Audits/Project Management Services – 91804.1

Experience in preparing annual audit reports and recommendations relative to organizational effectiveness. Requires knowledge of preparing reports pursuant to A-133 and Single Audit Reports to the Federal Government. Experience and knowledge with computerized accounting systems used in governmental entities. Experience in providing assistance in managing projects.

Human Resources Planning - 91866

Experience, particularly with public agencies, in classification compensation and benefits analysis, performance management, and related areas.

Legal Services – 91874.1

Ability to provide legal services with particular emphasis on long-range planning in the areas of transportation, housing planning, and environmental review. Knowledge and experience in dealing with Federal and State laws in these areas.

General experience and knowledge in the legal operation issues in public agencies in California, including, but not limited, to personnel and contracts.

Alternative Dispute Resolution – 91874.2

Provide alternative dispute resolutions services, including convening, mediation and negotiated rulemaking for public policy issues.

Computer Service Center – 91828.1

Assistance in managing our Computer system. Experience with Novell and AIX systems. Computer Hardware, Software, Training, and Maintenance services.

Executive Search – 91866.1

Conduct high level executive recruitment. Public sector experience required.

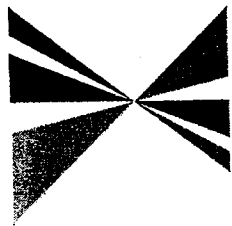
Insurance Broker Services – 91866.2

To provide broker of record services for the agency in the areas of comprehensive health and welfare benefits, workers' compensation, property and liability, Public Officials, and Employment Practices Liability.

ATTACHMENT C

DBE Goal and Methodology for Federal FY 2004 – 2005

SOUTHERN CALIFORNIA



**ASSOCIATION of
GOVERNMENTS**

Main Office

818 West Seventh Street

12th Floor

Los Angeles, California

90017-3435

t (213) 236-1800

f (213) 236-1825

www.scag.ca.gov

Officers: President: Councilmember Bev Perry,
Area • First Vice President: Councilmember Ron
Shields, Temecula • Second Vice President:
Supervisor Hank Kuiper, Imperial County • Past
President: Councilmember Ronald Bates,
Los Alamitos

Imperial County: Hank Kuiper, Imperial County •
Ron Shields, Brawley

Los Angeles County: Yvonne Brathwaite Burke,
Los Angeles County • Zev Yaroslavsky, Los Angeles
County • Harry Baldwin, San Gabriel • Paul
Bowlen, Cerritos • Tony Cardenas, Los Angeles •
Margaret Clark, Rosemead • Gene Daniels,
Burbank • Mike Dispenza, Palmdale • Judy
Junlap, Inglewood • Eric Garcetti, Los Angeles •
Wendy Greuel, Los Angeles • Frank Gurulé,
Cudahy • James Hahn, Los Angeles • Janice Hahn,
Los Angeles • Isadore Hall, Compton • Sandra
Jacobs, El Segundo • Tom LaBonge, Los Angeles •
Bonnie Lowenthal, Long Beach • Martin Ludlow,
Los Angeles • Keith McCarthy, Downey • Llewellyn
Miller, Claremont • Cindy Miskowski, Los
Angeles • Paul Nowatka, Torrance • Pam
O'Connor, Santa Monica • Alex Padilla, Los
Angeles • Bernard Parks, Los Angeles • Jan Perry,
Los Angeles • Beatrice Proo, Pico Rivera • Ed
Reyes, Los Angeles • Greig Smith, Los Angeles •
Dick Stanford, Azusa • Tom Sykes, Walnut • Paul
Talbot, Alhambra • Sidney Tyler, Pasadena • Tonia
Reyes Uranga, Long Beach • Antonio Villaraigosa,
Los Angeles • Dennis Washburn, Calabasas • Jack
Weiss, Los Angeles • Bob Yousefian, Glendale •
Dennis Zine, Los Angeles

Orange County: Chris Norby, Orange County •
Ronald Bates, Los Alamitos • Lou Bone, Tustin •
Art Brown, Buena Park • Richard Chavez, Anaheim
Debbie Cook, Huntington Beach • Cathryn
DeYoung, Laguna Niguel • Richard Dixon, Lake
Forest • Alta Duke, La Palma • Bev Perry, Brea •
Tod Ridgeway, Newport Beach

Riverside County: Marion Ashley, Riverside
County • Thomas Buckley, Lake Elsinore • Bonnie
Flickinger, Moreno Valley • Ron Lloveridge,
Riverside • Greg Pettis, Cathedral City • Ron
Roberts, Temecula

San Bernardino County: Paul Biane, San
Bernardino County • Bill Alexander, Rancho
Cucamonga • Edward Burghon, Town of Apple
Valley • Lawrence Dale, Barstow • Lee Ann Garcia,
Grand Terrace • Susan Longville, San Bernardino •
Gary Oviatt, Ontario • Deborah Robertson, Rialto

Ventura County: Judy Mikels, Ventura County •
Glen Becerra, Simi Valley • Carl Morehouse, San
Buenaventura • Toni Young, Port Hueneme

Orange County Transportation Authority:
Charles Smith, Orange County

Riverside County Transportation Commission:
Robin Lowe, Hemet

Ventura County Transportation Commission: Bill
Davis, Simi Valley

May 28, 2004

Mr. Kirk Cessna, Office Chief of Local Assistance
California Department of Transportation
700 N. Alameda Street, 4th Floor
Los Angeles, CA 90012

Attention: Mr. Sohan Basra

RE: **DRAFT ANNUAL OVERALL DBE GOAL INFORMATION FOR
FY 2004-2005**

Dear Mr. Basra:

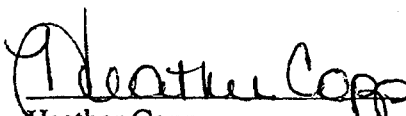
The Southern California Association of Governments (SCAG) respectfully submits for your review and comments our annual overall goal information for the new fiscal year (FY). SCAG proposes an annual overall DBE goal of 6% for FY 2004-2005, which begins on July 1, 2004 and ends on September 30, 2005 (It is SCAG's intent to revert back to the Federal fiscal year reporting period for future overall DBE goal submittals).

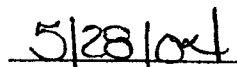
The amount of overall goal, methodology, and breakout of estimated race-neutral and race-conscious participation are presented herein (see Attachment) in accordance with Title 49 of the Code of Federal Regulations Part 26, and as described in the *Local Assistance Procedures Manual* ("LAPM," March 2001). Also, we will be updating our DBE program and submitting it for approval in July.

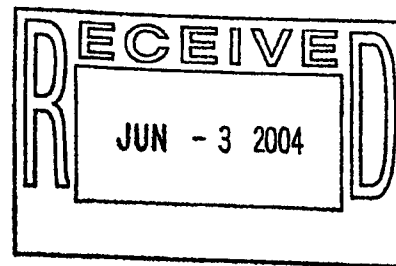
A summary of the breakout percentages appears below.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

5.4% (90% of the total goal of 6%) is broken-out as a race-conscious component. The remaining **.6%** (10% of the total goal of 6%) is spent using race-neutral means, where products and services are purchased from vendors based only on the lowest cost and best qualifications.


Heather Copp
CFO/DBE Liaison Officer


Date



ATTACHMENT

DBE Goal Methodology

The Southern California Association of Governments (SCAG) FY 2004-2005 Overall Work Program (OWP) is partly funded by the U.S. Department of Transportation (DOT) under a Consolidated Planning Grant (CPG), which includes funding from FHWA and FTA.¹ SCAG also receives funding from FAA and other Federal sources. The estimated value of DOT-assisted contracts and purchases identified in FY 2004-2005 is as follows:

I. DOT-Assisted Contracting Program [49CFR 26.45(a)]: Anticipated Work Program for FFY 2004-2005

Work Category	NAICS Category	Estimated Dollar Value	% of Federal Funding by Work Category
Transportation Planning Consulting	541614		
Environmental Consulting Services	541620		
Professional Services	541990	\$ 10,389,496*	98%
Commercial Lithographic Printing	323110	\$ 218,484*	2%
TOTAL		\$ 10,631,220*	100%

*These numbers exclude carry-over funding from the FY 2003-2004 OWP and are strictly for new contracts and purchase orders.

The types of projects funded from the above sources, will be directly administered by SCAG and include:

- Air Quality Management Plans
- Growth Visioning Studies
- Aerial Photography
- Regional Demographic Modeling and Area Income Modeling
- Air Cargo Studies
- Economic Modeling
- Environmental Impact Reports
- Goods Movement/Truck and Rail Studies
- Highway Studies and Highway Inventories
- Housing Needs Assessments and Strategies
- Parking Cost Modeling
- Regional Cordon Surveys
- Public Participation and Outreach
- Other Required Transportation Planning & Mandated Activities

¹ The FY 2004-2005 OWP is expected to begin on July 1, 2004 and end on September 30, 2005.

II. DBE Goal Methodology [49CFR 26.45(b)]:
Definition of Base Figure [49 CFR 26.45(b)]

The base figure is defined as the relative availability of DBEs in relation to all comparable firms available in an agency's contracting market area.

Number of Ready, Willing, and Able DBEs

----- = BASE FIGURE

Number of All Ready, Willing, and Able Firms

Step 1. Determination of a Base Figure [49CFR 26.45(c)]:

The base figure for the relative availability of DBE firms that are ready, willing, and able to participate in DOT-assisted contracting in the SCAG area are as follows:

	<u>Consulting/Professional</u>	<u>Printing</u>
Base Figure =	$\frac{.98 (79)}{1036}$	$\frac{.02 (3)}{71}$
Base Figure =	.07	0
Base Figure =	7%	

SCAG determined the Base Figure by following the "Utilizing the Bidders List" methodology. SCAG maintains an internal database of consultants and vendors. Presently, SCAG's database provides the most accurate number of potential DBEs available in the SCAG area.

SCAG's database contains firms that provide the types of services utilized by SCAG in the six-county region (Los Angeles, Orange, Imperial, Ventura, San Bernardino, and Riverside counties). Since SCAG is a transportation planning agency, SCAG frequently contracts with transportation planning and environmental consultants throughout the region.

Therefore, based upon the ratio of DBE to non-DBE firms, the base figure is 7% for availability of participation by DBE firms.

Step 2. Adjusting the Base Figure [49CFR 26.45(d)]:

After determining the base figure of 7%, staff surveyed SCAG's records from the previous year to determine whether an adjustment of the base figure is necessary.

In the past year, the value of contracts awarded to DBE firms was approximately \$240,403, out of a total value of approximately \$5,531,233 awarded to vendors and consultants during the same period. Therefore, the percentage of work awarded to DBE firms, based on the total value of all contracts and purchase orders was 4%.

SCAG anticipates at least 4% participation by DBE firms for FY 04-05, with an adjustment downward from 7% to 6% considering past participation.

Resultant Goal [49 CFR 26.45(e)]: 6%

III. Breakout of Estimated Race-Neutral and Race-Conscious Participation [49 CFR 26.51]:

“Race-conscious measure or program” is one that is focused specifically on assisting only DBEs, including women owned DBEs” (LAPM, 9-1).

Under the above definition, SCAG employs the following race-conscious measure:

SCAG contracting procedures require the consultant selection panel to factor DBE participation into the competitive selection process. A bidder may receive a weighted score of 1-5 points (out of 100 total points), depending on whether a bidder is a DBE or subcontracts part of the work to a DBE firm. Five points is the maximum weight received if DBE participation is involved.

Since approximately 90% of the DOT-assisted funds received by SCAG are awarded to consultants through the selection process described above, 90% of the total goal should be broken-out as a race conscious component. The remaining 10% are spent using race-neutral means, where products and services are purchased from vendors based only on the lowest cost and best qualifications.

IV. Public Participation in Setting Overall Annual DBE Goal [49 CFR 26.45(g)]

Upon approval of this draft goal by Caltrans and SCAG’s governing body, the Regional Council, SCAG will publish a notice of the proposed overall goal, in compliance with 49 CFR 26.45(g) and the LACM.

ATTACHMENT D

Regulations: 49 CFR Part 26

Electronic Code of Federal Regulations

e-CFR

TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JANUARY 29, 2004

49 CFR
Transportation
Subtitle A

Office of the Secretary of Transportation

**PART 26 -- PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF
TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS**

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Authority: 23 U.S.C. 324; 42 U.S.C. 2000d, *et seq.*; 49 U.S.C 1615, 47107, 47113, 47123; Sec. 1101(b), Pub. L. 105-178, 112 Stat. 107, 113.

Source: 64 FR 5126, Feb. 2, 1999, unless otherwise noted.

Subpart A -- General

[TOP]

§26.1 What are the objectives of this part?

This part seeks to achieve several objectives:

- (a) To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- (b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- (c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT-assisted contracts;

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- (f) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- (g) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

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§26.3 To whom does this part apply?

(a) If you are a recipient of any of the following types of funds, this part applies to you:

- (1) Federal-aid highway funds authorized under Titles I (other than Part B) and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107.
- (2) Federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178.
- (3) Airport funds authorized by 49 U.S.C. 47101, *et seq.*

(b) [Reserved]

(c) If you are letting a contract, and that contract is to be performed entirely outside the United States, its territories and possessions, Puerto Rico, Guam, or the Northern Marianas Islands, this part does not apply to the contract.

(d) If you are letting a contract in which DOT financial assistance does not participate, this part does not apply to the contract.

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26.5 What do the terms used in this part mean?

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

(1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:

- (i) One concern controls or has the power to control the other; or
- (ii) A third party or parties controls or has the power to control both; or
- (iii) An identity of interest between or among parties exists such that affiliation may be found.

(2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

Alaska Native means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*).

Compliance means that a recipient has correctly implemented the requirements of this part.

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Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

Contractor means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

Department or *DOT* means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Disadvantaged business enterprise or *DBE* means a for-profit small business concern --

- (1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

DOT/SBA Memorandum of Understanding or MOU, refers to the agreement signed on November 23, 1999, between the Department of Transportation (DOT) and the Small Business Administration (SBA) streamlining certification procedures for participation in SBA's 8(a) Business Development (8(a) BD) and Small Disadvantaged Business (SDB) programs, and DOT's Disadvantaged Business Enterprise (DBE) program for small and disadvantaged businesses.

Good faith efforts means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of "tribally-owned concern" in this section.

Joint venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian Organization means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

Noncompliance means that a recipient has not correctly implemented the requirements of this part.

Operating Administration or *OA* means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The "Administrator" of an operating administration includes his or her designees.

Personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An

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individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Primary industry classification means the North American Industrial Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the *North American Industry Classification Manual -- United States, 1997* which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA, 22161; by calling 1 (800) 553-6847; or via the Internet at: <http://www.ntis.gov/product/naics.htm>.

Primary recipient means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.

Program means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, *race-neutral* includes gender-neutrality.

Recipient is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Secretary means the Secretary of Transportation or his/her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration or *SBA* means the United States Small Business Administration.

SBA certified firm refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is --

- (1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

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(iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

You refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., 'You must do XYZ' means that recipients must do XYZ).

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35553, June 16, 2003]

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§26.7 What discriminatory actions are forbidden?

(a) You must never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by this part on the basis of race, color, sex, or national origin.

(b) In administering your DBE program, you must not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, sex, or national origin.

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§26.9 How does the Department issue guidance and interpretations under this part?

(a) This part applies instead of subparts A and C through E of 49 CFR part 23 in effect prior to March 4, 1999. (See 49 CFR Parts 1 to 99, revised as of October 1, 1998.) Only guidance and interpretations (including interpretations set forth in certification appeal decisions) consistent with this part 26 and issued after March 4, 1999 have definitive, binding effect in implementing the provisions of this part and constitute the official position of the Department of Transportation.

(b) The Secretary of Transportation, Office of the Secretary of Transportation, FHWA, FTA, and FAA may issue written interpretations of or written guidance concerning this part. Written interpretations and guidance are valid and binding, and constitute the official position of the Department of Transportation, only if they are issued over the signature of the Secretary of Transportation or if they contain the following statement:

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR part 26.

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§26.11 What records do recipients keep and report?

(a) [Reserved]

(b) You must continue to provide data about your DBE program to the Department as directed by DOT operating

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administrations.

(c) You must create and maintain a bidders list.

(1) The purpose of this list is to provide you as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts for use in helping you set your overall goals.

(2) You must obtain the following information about DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts:

(i) Firm name;

(ii) Firm address;

(iii) Firm's status as a DBE or non-DBE;

(iv) Age of the firm; and

(v) The annual gross receipts of the firm. You may obtain this information by asking each firm to indicate into what gross receipts bracket they fit (*e.g.*, less than \$500,000; \$500,000-\$1 million; \$1-2 million; \$2-5 million; *etc.*) rather than requesting an exact figure from the firm.

(3) You may acquire the information for your bidders list in a variety of ways. For example, you can collect the data from all bidders, before or after the bid due date. You can conduct a survey that will result in statistically sound estimate of the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts. You may combine different data collection approaches (*e.g.*, collect name and address information from all bidders, while conducting a survey with respect to age and gross receipts information).

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000]

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§26.13 What assurances must recipients and contractors make?

(a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

(b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

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§26.15 How can recipients apply for exemptions or waivers?

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(a) You can apply for an exemption from any provision of this part. To apply, you must request the exemption in writing from the Office of the Secretary of Transportation, FHWA, FTA, or FAA. The Secretary will grant the request only if it documents special or exceptional circumstances, not likely to be generally applicable, and not contemplated in connection with the rulemaking that established this part, that make your compliance with a specific provision of this part impractical. You must agree to take any steps that the Department specifies to comply with the intent of the provision from which an exemption is granted. The Secretary will issue a written response to all exemption requests.

(b) You can apply for a waiver of any provision of Subpart B or C of this part including, but not limited to, any provisions regarding administrative requirements, overall goals, contract goals or good faith efforts. Program waivers are for the purpose of authorizing you to operate a DBE program that achieves the objectives of this part by means that may differ from one or more of the requirements of Subpart B or C of this part. To receive a program waiver, you must follow these procedures:

(1) You must apply through the concerned operating administration. The application must include a specific program proposal and address how you will meet the criteria of paragraph (b)(2) of this section. Before submitting your application, you must have had public participation in developing your proposal, including consultation with the DBE community and at least one public hearing. Your application must include a summary of the public participation process and the information gathered through it.

(2) Your application must show that --

(i) There is a reasonable basis to conclude that you could achieve a level of DBE participation consistent with the objectives of this part using different or innovative means other than those that are provided in subpart B or C of this part;

(ii) Conditions in your jurisdiction are appropriate for implementing the proposal;

(iii) Your proposal would prevent discrimination against any individual or group in access to contracting opportunities or other benefits of the program; and

(iv) Your proposal is consistent with applicable law and program requirements of the concerned operating administration's financial assistance program.

(3) The Secretary has the authority to approve your application. If the Secretary grants your application, you may administer your DBE program as provided in your proposal, subject to the following conditions:

(i) DBE eligibility is determined as provided in subparts D and E of this part, and DBE participation is counted as provided in §26.49;

(ii) Your level of DBE participation continues to be consistent with the objectives of this part;

(iii) There is a reasonable limitation on the duration of your modified program; and

(iv) Any other conditions the Secretary makes on the grant of the waiver.

(4) The Secretary may end a program waiver at any time and require you to comply with this part's provisions. The Secretary may also extend the waiver, if he or she determines that all requirements of paragraphs (b)(2) and (3) of this section continue to be met. Any such extension shall be for no longer than period originally set for the duration of the program.

Subpart B -- Administrative Requirements for DBE Programs for Federally-Assisted Contracting

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§26.21 Who must have a DBE program?

(a) If you are in one of these categories and let DOT-assisted contracts, you must have a DBE program meeting the requirements of this part:

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- (1) All FHWA recipients receiving funds authorized by a statute to which this part applies;
 - (2) FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year;
 - (3) FAA recipients receiving grants for airport planning or development who will award prime contracts exceeding \$250,000 in FAA funds in a Federal fiscal year.
- (b)(1) You must submit a DBE program conforming to this part by August 31, 1999 to the concerned operating administration (OA). Once the OA has approved your program, the approval counts for all of your DOT-assisted programs (except that goals are reviewed by the particular operating administration that provides funding for your DOT-assisted contracts).
- (2) You do not have to submit regular updates of your DBE programs, as long as you remain in compliance. However, you must submit significant changes in the program for approval.
- (c) You are not eligible to receive DOT financial assistance unless DOT has approved your DBE program and you are in compliance with it and this part. You must continue to carry out your program until all funds from DOT financial assistance have been expended.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000]

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§26.23 What is the requirement for a policy statement?

You must issue a signed and dated policy statement that expresses your commitment to your DBE program, states its objectives, and outlines responsibilities for its implementation. You must circulate the statement throughout your organization and to the DBE and non-DBE business communities that perform work on your DOT-assisted contracts.

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§26.25 What is the requirement for a liaison officer?

You must have a DBE liaison officer, who shall have direct, independent access to your Chief Executive Officer concerning DBE program matters. The liaison officer shall be responsible for implementing all aspects of your DBE program. You must also have adequate staff to administer the program in compliance with this part.

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26.27 What efforts must recipients make concerning DBE financial institutions?

You must thoroughly investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in your community and make reasonable efforts to use these institutions. You must also encourage prime contractors to use such institutions.

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§26.29 What prompt payment mechanisms must recipients have?

- (a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.
- (b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this

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requirement:

- (1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.
- (2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.
- (3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.
- (c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- (d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.
- (e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:
 - (1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.
 - (2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.
 - (3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

[68 FR 35553, June 16, 2003]

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§26.31 What requirements pertain to the DBE directory?

You must maintain and make available to interested persons a directory identifying all firms eligible to participate as DBEs in your program. In the listing for each firm, you must include its address, phone number, and the types of work the firm has been certified to perform as a DBE. You must revise your directory at least annually and make updated information available to contractors and the public on request.

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§26.33 What steps must a recipient take to address overconcentration of DBEs in certain types of work?

- (a) If you determine that DBE firms are so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, you must devise appropriate measures to address this overconcentration.
- (b) These measures may include the use of incentives, technical assistance, business development programs, mentor-protégé

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programs, and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which you have determined that non-DBEs are unduly burdened. You may also consider varying your use of contract goals, to the extent consistent with §26.51, to ensure that non-DBEs are not unfairly prevented from competing for subcontracts.

(c) You must obtain the approval of the concerned DOT operating administration for your determination of overconcentration and the measures you devise to address it. Once approved, the measures become part of your DBE program.

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§26.35 What role do business development and mentor-protégé programs have in the DBE program?

(a) You may or, if an operating administration directs you to, you must establish a DBE business development program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program. You may require a DBE firm, as a condition of receiving assistance through the BDP, to agree to terminate its participation in the DBE program after a certain time has passed or certain objectives have been reached. See Appendix C of this part for guidance on administering BDP programs.

(b) As part of a BDP or separately, you may establish a "mentor-protégé" program, in which another DBE or non-DBE firm is the principal source of business development assistance to a DBE firm.

(1) Only firms you have certified as DBEs before they are proposed for participation in a mentor-protégé program are eligible to participate in the mentor-protégé program.

(2) During the course of the mentor-protégé relationship, you must:

(i) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than one half of its goal on any contract let by the recipient; and

(ii) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than every other contract performed by the protégé firm.

(3) For purposes of making determinations of business size under this part, you must not treat protégé firms as affiliates of mentor firms, when both firms are participating under an approved mentor-protégé program. See Appendix D of this part for guidance concerning the operation of mentor-protégé programs.

(c) Your BDPs and mentor-protégé programs must be approved by the concerned operating administration before you implement them. Once approved, they become part of your DBE program.

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§26.37 What are a recipient's responsibilities for monitoring the performance of other program participants?

(a) You must implement appropriate mechanisms to ensure compliance with the part's requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law). You must set forth these mechanisms in your DBE program.

(b) Your DBE program must also include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBEs.

(c) This mechanism must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. In your reports of DBE participation to the Department, you must display both commitments and attainments.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003]

Subpart C -- Goals, Good Faith Efforts, and Counting

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§26.41 What is the role of the statutory 10 percent goal in this program?

- (a) The statutes authorizing this program provide that, except to the extent the Secretary determines otherwise, not less than 10 percent of the authorized funds are to be expended with DBEs.
- (b) This 10 percent goal is an aspirational goal at the national level, which the Department uses as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts.
- (c) The national 10 percent goal does not authorize or require recipients to set overall or contract goals at the 10 percent level, or any other particular level, or to take any special administrative steps if their goals are above or below 10 percent.

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§26.43 Can recipients use set-asides or quotas as part of this program?

- (a) You are not permitted to use quotas for DBEs on DOT-assisted contracts subject to this part.
- (b) You may not set-aside contracts for DBEs on DOT-assisted contracts subject to this part, except that, in limited and extreme circumstances, you may use set-asides when no other method could be reasonably expected to redress egregious instances of discrimination.

[\[TOP\]](#)

§26.45 How do recipients set overall goals?

- (a)(1) Except as provided in paragraph (a)(2) of this section, you must set an overall goal for DBE participation in your DOT-assisted contracts.
- (2) If you are a FTA or FAA recipient who reasonably anticipates awarding (excluding transit vehicle purchases) \$250,000 or less in FTA or FAA funds in prime contracts in a Federal fiscal year, you are not required to develop overall goals for FTA or FAA respectively for that fiscal year. However, if you have an existing DBE program, it must remain in effect and you must seek to fulfill the objectives outlined in §26.1.
- (b) Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the "relative availability of DBEs"). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.
- (c) *Step 1.* You must begin your goal setting process by determining a base figure for the relative availability of DBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining all evidence available in your jurisdiction. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the concerned operating administration.
 - (1) *Use DBE Directories and Census Bureau Data.* Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, www.census.gov/epcd/cbp/view/cbpview.html.) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.
 - (2) *Use a bidders list.* Determine the number of DBEs that have bid or quoted on your DOT-assisted prime contracts or

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subcontracts in the previous year. Determine the number of all businesses that have bid or quoted on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number for all businesses to derive a base figure for the relative availability of DBEs in your market.

(3) *Use data from a disparity study.* Use a percentage figure derived from data in a valid, applicable disparity study.

(4) *Use the goal of another DOT recipient.* If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.

(5) *Alternative methods.* You may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market.

(d) *Step 2.* Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal.

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

(2) If available, you must consider evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

(3) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the "but for" factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

(e) Once you have determined a percentage figure in accordance with paragraphs (c) and (d) of this section, you should express your overall goal as follows:

(1) If you are an FHWA recipient, as a percentage of all Federal-aid highway funds you will expend in FHWA-assisted contracts in the forthcoming fiscal year;

(2) If you are an FTA or FAA recipient, as a percentage of all FTA or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that you will expend in FTA or FAA-assisted contracts in the forthcoming fiscal year. In appropriate cases, the FTA or FAA Administrator may permit you to express your overall goal as a percentage of funds for a particular grant or project or group of grants and/or projects.

(f)(1) If you set overall goals on a fiscal year basis, you must submit them to the applicable DOT operating administration for review on August 1 of each year, unless the Administrator of the concerned operating administration establishes a different submission date.

(2) If you are an FTA or FAA recipient and set your overall goal on a project or grant basis, you must submit the goal for

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review at a time determined by the FTA or FAA Administrator.

(3) You must include with your overall goal submission a description of the methodology you used to establish the goal, including your base figure and the evidence with which it was calculated, and the adjustments you made to the base figure and the evidence relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and, where applicable, an explanation of why you did not use that evidence to adjust your base figure. You must also include your projection of the portions of the overall goal you expect to meet through race-neutral and race-conscious measures, respectively (see §26.51(c)).

(4) You are not required to obtain prior operating administration concurrence with the your overall goal. However, if the operating administration's review suggests that your overall goal has not been correctly calculated, or that your method for calculating goals is inadequate, the operating administration may, after consulting with you, adjust your overall goal or require that you do so. The adjusted overall goal is binding on you.

(5) If you need additional time to collect data or take other steps to develop an approach to setting overall goals, you may request the approval of the concerned operating administration for an interim goal and/or goal-setting mechanism. Such a mechanism must:

(i) Reflect the relative availability of DBEs in your local market to the maximum extent feasible given the data available to you; and

(ii) Avoid imposing undue burdens on non-DBEs.

(g) In establishing an overall goal, you must provide for public participation. This public participation must include:

(1) Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs.

(2) A published notice announcing your proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at your principal office for 30 days following the date of the notice, and informing the public that you and the Department will accept comments on the goals for 45 days from the date of the notice. The notice must include addresses to which comments may be sent, and you must publish it in general circulation media and available minority-focused media and trade association publications.

(h) Your overall goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 68 FR 35553, June 16, 2003]

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§26.47 Can recipients be penalized for failing to meet overall goals?

(a) You cannot be penalized, or treated by the Department as being in noncompliance with this rule, because your DBE participation falls short of your overall goal, unless you have failed to administer your program in good faith.

(b) If you do not have an approved DBE program or overall goal, or if you fail to implement your program in good faith, you are in noncompliance with this part.

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§26.49 How are overall goals established for transit vehicle manufacturers?

(a) If you are an FTA recipient, you must require in your DBE program that each transit vehicle manufacturer, as a condition

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of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of this section. You do not include FTA assistance used in transit vehicle procurements in the base amount from which your overall goal is calculated.

(b) If you are a transit vehicle manufacturer, you must establish and submit for FTA's approval an annual overall percentage goal. In setting your overall goal, you should be guided, to the extent applicable, by the principles underlying §26.45. The base from which you calculate this goal is the amount of FTA financial assistance included in transit vehicle contracts you will perform during the fiscal year in question. You must exclude from this base funds attributable to work performed outside the United States and its territories, possessions, and commonwealths. The requirements and procedures of this part with respect to submission and approval of overall goals apply to you as they do to recipients.

(c) As a transit vehicle manufacturer, you may make the certification required by this section if you have submitted the goal this section requires and FTA has approved it or not disapproved it.

(d) As a recipient, you may, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying through the procedures of this section.

(e) If you are an FHWA or FAA recipient, you may, with FHWA or FAA approval, use the procedures of this section with respect to procurements of vehicles or specialized equipment. If you choose to do so, then the manufacturers of this equipment must meet the same requirements (including goal approval by FHWA or FAA) as transit vehicle manufacturers must meet in FTA-assisted procurements.

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§26.51 What means do recipients use to meet overall goals?

(a) You must meet the maximum feasible portion of your overall goal by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts).

(b) Race-neutral means include, but are not limited to, the following:

(1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);

(2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);

(3) Providing technical assistance and other services;

(4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);

(5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;

(6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;

(7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been

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low;

(8) Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and

(9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

(c) Each time you submit your overall goal for review by the concerned operating administration, you must also submit your projection of the portion of the goal that you expect to meet through race-neutral means and your basis for that projection. This projection is subject to approval by the concerned operating administration, in conjunction with its review of your overall goal.

(d) You must establish contract goals to meet any portion of your overall goal you do not project being able to meet using race-neutral means.

(e) The following provisions apply to the use of contract goals:

(1) You may use contract goals only on those DOT-assisted contracts that have subcontracting possibilities.

(2) You are not required to set a contract goal on every DOT-assisted contract. You are not required to set each contract goal at the same percentage level as the overall goal. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by your overall goal, you must set contract goals so that they will cumulatively result in meeting any portion of your overall goal you do not project being able to meet through the use of race-neutral means.

(3) Operating administration approval of each contract goal is not necessarily required. However, operating administrations may review and approve or disapprove any contract goal you establish.

(4) Your contract goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

(f) To ensure that your DBE program continues to be narrowly tailored to overcome the effects of discrimination, you must adjust your use of contract goals as follows:

(1) If your approved projection under paragraph (c) of this section estimates that you can meet your entire overall goal for a given year through race-neutral means, you must implement your program without setting contract goals during that year.

Example to Paragraph (f)(1): Your overall goal for Year I is 12 percent. You estimate that you can obtain 12 percent or more DBE participation through the use of race-neutral measures, without any use of contract goals. In this case, you do not set any contract goals for the contracts that will be performed in Year I.

(2) If, during the course of any year in which you are using contract goals, you determine that you will exceed your overall goal, you must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If you determine that you will fall short of your overall goal, then you must make appropriate modifications in your use of race-neutral and/or race-conscious measures to allow you to meet the overall goal.

Example to Paragraph (f)(2): In Year II, your overall goal is 12 percent. You have estimated that you can obtain 5 percent DBE participation through use of race-neutral measures. You therefore plan to obtain the remaining 7 percent participation through use of DBE goals. By September, you have already obtained 11 percent DBE participation for the year. For contracts let during the remainder of the year, you use contract goals only to the extent necessary to obtain an additional one percent DBE participation. However, if you determine in September that your participation for the year is likely to be only 8 percent total, then you would increase your use of race-neutral and/or race-conscious means during the remainder of the year in order to achieve your overall goal.

(3) If the DBE participation you have obtained by race-neutral means alone meets or exceeds your overall goals for two consecutive years, you are not required to make a projection of the amount of your goal you can meet using such means in the next year. You do not set contract goals on any contracts in the next year. You continue using only race-neutral means to

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meet your overall goals unless and until you do not meet your overall goal for a year.

Example to Paragraph (f)(3): Your overall goal for Years I and Year II is 10 percent. The DBE participation you obtain through race-neutral measures alone is 10 percent or more in each year. (For this purpose, it does not matter whether you obtained additional DBE participation through using contract goals in these years.) In Year III and following years, you do not need to make a projection under paragraph (c) of this section of the portion of your overall goal you expect to meet using race-neutral means. You simply use race-neutral means to achieve your overall goals. However, if in Year VI your DBE participation falls short of your overall goal, then you must make a paragraph (c) projection for Year VII and, if necessary, resume use of contract goals in that year.

(4) If you obtain DBE participation that exceeds your overall goal in two consecutive years through the use of contract goals (i.e., not through the use of race-neutral means alone), you must reduce your use of contract goals proportionately in the following year.

Example to Paragraph (f)(4): In Years I and II, your overall goal is 12 percent, and you obtain 14 and 16 percent DBE participation, respectively. You have exceeded your goals over the two-year period by an average of 25 percent. In Year III, your overall goal is again 12 percent, and your paragraph (c) projection estimates that you will obtain 4 percent DBE participation through race-neutral means and 8 percent through contract goals. You then reduce the contract goal projection by 25 percent (i.e., from 8 to 6 percent) and set contract goals accordingly during the year. If in Year III you obtain 11 percent participation, you do not use this contract goal adjustment mechanism for Year IV, because there have not been two *consecutive* years of exceeding overall goals.

(g) In any year in which you project meeting part of your goal through race-neutral means and the remainder through contract goals, you must maintain data separately on DBE achievements in those contracts with and without contract goals, respectively. You must report this data to the concerned operating administration as provided in §26.11.

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§26.53 What are the good faith efforts procedures recipients follow in situations where there are contract goals?

(a) When you have established a DBE contract goal, you must award the contract only to a bidder/offeror who makes good faith efforts to meet it. You must determine that a bidder/offeror has made good faith efforts if the bidder/offeror does either of the following things:

(1) Documents that it has obtained enough DBE participation to meet the goal; or

(2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder/offeror does document adequate good faith efforts, you must not deny award of the contract on the basis that the bidder/offeror failed to meet the goal. See Appendix A of this part for guidance in determining the adequacy of a bidder/offeror's good faith efforts.

(b) In your solicitations for DOT-assisted contracts for which a contract goal has been established, you must require the following:

(1) Award of the contract will be conditioned on meeting the requirements of this section;

(2) All bidders/offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:

(i) The names and addresses of DBE firms that will participate in the contract;

(ii) A description of the work that each DBE will perform;

(iii) The dollar amount of the participation of each DBE firm participating;

(iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;

(v) Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and

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- (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part); and
- (3) At your discretion, the bidder/offeror must present the information required by paragraph (b)(2) of this section --
- (i) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; or
- (ii) At any time before you commit yourself to the performance of the contract by the bidder/offeror, as a matter of responsibility.
- (c) You must make sure all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing yourself to the performance of the contract by the bidder/offeror.
- (d) If you determine that the apparent successful bidder/offeror has failed to meet the requirements of paragraph (a) of this section, you must, before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration.
- (1) As part of this reconsideration, the bidder/offeror must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.
- (2) Your decision on reconsideration must be made by an official who did not take part in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so.
- (3) The bidder/offeror must have the opportunity to meet in person with your reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.
- (4) You must send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.
- (5) The result of the reconsideration process is not administratively appealable to the Department of Transportation.
- (e) In a "design-build" or "turnkey" contracting situation, in which the recipient lets a master contract to a contractor, who in turn lets subsequent subcontracts for the work of the project, a recipient may establish a goal for the project. The master contractor then establishes contract goals, as appropriate, for the subcontracts it lets. Recipients must maintain oversight of the master contractor's activities to ensure that they are conducted consistent with the requirements of this part.
- (f)(1) You must require that a prime contractor not terminate for convenience a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without your prior written consent.
- (2) When a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, you must require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal you established for the procurement.
- (3) You must include in each prime contract a provision for appropriate administrative remedies that you will invoke if the prime contractor fails to comply with the requirements of this section.
- (g) You must apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, you count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

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§26.55 How is DBE participation counted toward goals?

- (a) When a DBE participates in a contract, you count only the value of the work actually performed by the DBE toward DBE

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goals.

(1) Count the entire amount of that portion of a construction contract (or other contract not covered by paragraph (a)(2) of this section) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

(2) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

(3) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

(b) When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

(c) Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.

(1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

(2) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.

(3) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

(4) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c)(3) of this section, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

(5) Your decisions on commercially useful function matters are subject to review by the concerned operating administration, but are not administratively appealable to DOT.

(d) Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

(1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

(2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

(3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

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(4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

(5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate Department Operating Administration.

Example to this paragraph (d)(5): DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

(6) For purposes of this paragraph (d), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

(e) Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

(1)(i) If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals.

(ii) For purposes of this paragraph (e)(1), a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

(2)(i) If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals.

(ii) For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

(A) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

(B) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph (e)(2)(ii) if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

(C) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph (e)(2).

(3) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.

(f) If a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, do not count the firm's participation toward any DBE goals, except as provided for in §26.87(i).

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(g) Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward your overall goal.

(h) Do not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003]

Subpart D -- Certification Standards

[TOP]

§26.61 How are burdens of proof allocated in the certification process?

(a) In determining whether to certify a firm as eligible to participate as a DBE, you must apply the standards of this subpart.

(b) The firm seeking certification has the burden of demonstrating to you, by a preponderance of the evidence, that it meets the requirements of this subpart concerning group membership or individual disadvantage, business size, ownership, and control.

(c) You must rebuttably presume that members of the designated groups identified in §26.67(a) are socially and economically disadvantaged. This means they do not have the burden of proving to you that they are socially and economically disadvantaged. In order to obtain the benefit of the rebuttable presumption, individuals must submit a signed, notarized statement that they are a member of one of the groups in §26.67(a). Applicants do have the obligation to provide you information concerning their economic disadvantage (*see* §26.67).

(d) Individuals who are not presumed to be socially and economically disadvantaged, and individuals concerning whom the presumption of disadvantage has been rebutted, have the burden of proving to you, by a preponderance of the evidence, that they are socially and economically disadvantaged. (See Appendix E of this part.)

(e) You must make determinations concerning whether individuals and firms have met their burden of demonstrating group membership, ownership, control, and social and economic disadvantage (where disadvantage must be demonstrated on an individual basis) by considering all the facts in the record, viewed as a whole.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

[TOP]

§26.63 What rules govern group membership determinations?

(a)(1) If, after reviewing the signed notarized statement of membership in a presumptively disadvantaged group (*see* §26.61(c)), you have a well founded reason to question the individual's claim of membership in that group, you must require the individual to present additional evidence that he or she is a member of the group.

(2) You must provide the individual a written explanation of your reasons for questioning his or her group membership and a written request for additional evidence as outlined in paragraph (b) of this section.

(3) In implementing this section, you must take special care to ensure that you do not impose a disproportionate burden on members of any particular designated group. Imposing a disproportionate burden on members of a particular group could violate §26.7(b) and/or Title VI of the Civil Rights Act of 1964 and 49 CFR part 21.

(b) In making such a determination, you must consider whether the person has held himself out to be a member of the group over a long period of time prior to application for certification and whether the person is regarded as a member of the group by the relevant community. You may require the applicant to produce appropriate documentation of group membership.

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- (1) If you determine that an individual claiming to be a member of a group presumed to be disadvantaged is not a member of a designated disadvantaged group, the individual must demonstrate social and economic disadvantage on an individual basis.
- (2) Your decisions concerning membership in a designated group are subject to the certification appeals procedure of §26.89.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

[\[TOP\]](#)

§26.65 What rules govern business size determinations?

- (a) To be an eligible DBE, a firm (including its affiliates) must be an existing small business, as defined by Small Business Administration (SBA) standards. You must apply current SBA business size standard(s) found in 13 CFR part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts.
- (b) Even if it meets the requirements of paragraph (a) of this section, a firm is not an eligible DBE in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts, as defined by SBA regulations (see 13 CFR 121.402), over the firm's previous three fiscal years, in excess of \$16.6 million. The Secretary adjusts this amount for inflation from time to time.

[\[TOP\]](#)

§26.67 What rules determine social and economic disadvantage?

- (a) *Presumption of disadvantage.* (1) You must rebuttably presume that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals. You must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.
- (2) (i) You must require each individual owner of a firm applying to participate as a DBE (except a firm applying to participate as a DBE airport concessionaire) whose ownership and control are relied upon for DBE certification to certify that he or she has a personal net worth that does not exceed \$750,000.
- (ii) You must require each individual who makes this certification to support it with a signed, notarized statement of personal net worth, with appropriate supporting documentation. This statement and documentation must not be unduly lengthy, burdensome, or intrusive.
- (iii) In determining an individual's net worth, you must observe the following requirements:
- (A) Exclude an individual's ownership interest in the applicant firm;
- (B) Exclude the individual's equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm).
- (C) Do not use a contingent liability to reduce an individual's net worth.
- (D) With respect to assets held in vested pension plans, Individual Retirement Accounts, 401(k) accounts, or other retirement savings or investment programs in which the assets cannot be distributed to the individual at the present time without significant adverse tax or interest consequences, include only the present value of such assets, less the tax and interest penalties that would accrue if the asset were distributed at the present time.
- (iv) Notwithstanding any provision of Federal or state law, you must not release an individual's personal net worth statement nor any documentation supporting it to any third party without the written consent of the submitter. *Provided*, that you must transmit this information to DOT in any certification appeal proceeding under §26.89 in which the disadvantaged status of the individual is in question.

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(b) *Rebuttal of presumption of disadvantage.* (1) If the statement of personal net worth that an individual submits under paragraph (a)(2) of this section shows that the individual's personal net worth exceeds \$750,000, the individual's presumption of economic disadvantage is rebutted. You are not required to have a proceeding under paragraph (b)(2) of this section in order to rebut the presumption of economic disadvantage in this case.

(2) If you have a reasonable basis to believe that an individual who is a member of one of the designated groups is not, in fact, socially and/or economically disadvantaged you may, at any time, start a proceeding to determine whether the presumption should be regarded as rebutted with respect to that individual. Your proceeding must follow the procedures of §26.87.

(3) In such a proceeding, you have the burden of demonstrating, by a preponderance of the evidence, that the individual is not socially and economically disadvantaged. You may require the individual to produce information relevant to the determination of his or her disadvantage.

(4) When an individual's presumption of social and/or economic disadvantage has been rebutted, his or her ownership and control of the firm in question cannot be used for purposes of DBE eligibility under this subpart unless and until he or she makes an individual showing of social and/or economic disadvantage. If the basis for rebutting the presumption is a determination that the individual's personal net worth exceeds \$750,000, the individual is no longer eligible for participation in the program and cannot regain eligibility by making an individual showing of disadvantage.

(c) [Reserved]

(d) *Individual determinations of social and economic disadvantage.* Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged (including individuals whose presumed disadvantage has been rebutted) may apply for DBE certification. You must make a case-by-case determination of whether each individual whose ownership and control are relied upon for DBE certification is socially and economically disadvantaged. In such a proceeding, the applicant firm has the burden of demonstrating to you, by a preponderance of the evidence, that the individuals who own and control it are socially and economically disadvantaged. An individual whose personal net worth exceeds \$750,000 shall not be deemed to be economically disadvantaged. In making these determinations, use the guidance found in Appendix E of this part. You must require that applicants provide sufficient information to permit determinations under the guidance of Appendix E of this part.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35554, June 16, 2003]

[\[TOP\]](#)

§26.69 What rules govern determinations of ownership?

(a) In determining whether the socially and economically disadvantaged participants in a firm own the firm, you must consider all the facts in the record, viewed as a whole.

(b) To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals.

(1) In the case of a corporation, such individuals must own at least 51 percent of the each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding.

(2) In the case of a partnership, 51 percent of each class of partnership interest must be owned by socially and economically disadvantaged individuals. Such ownership must be reflected in the firm's partnership agreement.

(3) In the case of a limited liability company, at least 51 percent of each class of member interest must be owned by socially and economically disadvantaged individuals.

(c) The firm's ownership by socially and economically disadvantaged individuals must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. The disadvantaged owners must enjoy the customary incidents of ownership, and share in the risks and profits commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements.

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(d) All securities that constitute ownership of a firm shall be held directly by disadvantaged persons. Except as provided in this paragraph (d), no securities or assets held in trust, or by any guardian for a minor, are considered as held by disadvantaged persons in determining the ownership of a firm. However, securities or assets held in trust are regarded as held by a disadvantaged individual for purposes of determining ownership of the firm, if --

(1) The beneficial owner of securities or assets held in trust is a disadvantaged individual, and the trustee is the same or another such individual; or

(2) The beneficial owner of a trust is a disadvantaged individual who, rather than the trustee, exercises effective control over the management, policy-making, and daily operational activities of the firm. Assets held in a revocable living trust may be counted only in the situation where the same disadvantaged individual is the sole grantor, beneficiary, and trustee.

(e) The contributions of capital or expertise by the socially and economically disadvantaged owners to acquire their ownership interests must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, or mere participation in a firm's activities as an employee. Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.

(f) The following requirements apply to situations in which expertise is relied upon as part of a disadvantaged owner's contribution to acquire ownership:

(1) The owner's expertise must be --

(i) In a specialized field;

(ii) Of outstanding quality;

(iii) In areas critical to the firm's operations;

(iv) Indispensable to the firm's potential success;

(v) Specific to the type of work the firm performs; and

(vi) Documented in the records of the firm. These records must clearly show the contribution of expertise and its value to the firm.

(2) The individual whose expertise is relied upon must have a significant financial investment in the firm.

(g) You must always deem as held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual --

(1) As the result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this section; or

(2) Through inheritance, or otherwise because of the death of the former owner.

(h)(1) You must presume as not being held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any non-disadvantaged individual or non-DBE firm who is --

(i) Involved in the same firm for which the individual is seeking certification, or an affiliate of that firm;

(ii) Involved in the same or a similar line of business; or

(iii) Engaged in an ongoing business relationship with the firm, or an affiliate of the firm, for which the individual is seeking certification.

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(2) To overcome this presumption and permit the interests or assets to be counted, the disadvantaged individual must demonstrate to you, by clear and convincing evidence, that --

(i) The gift or transfer to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(ii) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who provided the gift or transfer.

(i) You must apply the following rules in situations in which marital assets form a basis for ownership of a firm:

(1) When marital assets (other than the assets of the business in question), held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one spouse, you must deem the ownership interest in the firm to have been acquired by that spouse with his or her own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the firm is domiciled. You do not count a greater portion of joint or community property assets toward ownership than state law would recognize as belonging to the socially and economically disadvantaged owner of the applicant firm.

(2) A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned or community assets used to acquire an ownership interest in the firm must be included as part of the firm's application for DBE certification.

(j) You may consider the following factors in determining the ownership of a firm. However, you must not regard a contribution of capital as failing to be real and substantial, or find a firm ineligible, solely because --

(1) A socially and economically disadvantaged individual acquired his or her ownership interest as the result of a gift, or transfer without adequate consideration, other than the types set forth in paragraph (h) of this section;

(2) There is a provision for the co-signature of a spouse who is not a socially and economically disadvantaged individual on financing agreements, contracts for the purchase or sale of real or personal property, bank signature cards, or other documents; or

(3) Ownership of the firm in question or its assets is transferred for adequate consideration from a spouse who is not a socially and economically disadvantaged individual to a spouse who is such an individual. In this case, you must give particularly close and careful scrutiny to the ownership and control of a firm to ensure that it is owned and controlled, in substance as well as in form, by a socially and economically disadvantaged individual.

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§26.71 What rules govern determinations concerning control?

(a) In determining whether socially and economically disadvantaged owners control a firm, you must consider all the facts in the record, viewed as a whole.

(b) Only an independent business may be certified as a DBE. An independent business is one the viability of which does not depend on its relationship with another firm or firms.

(1) In determining whether a potential DBE is an independent business, you must scrutinize relationships with non-DBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.

(2) You must consider whether present or recent employer/employee relationships between the disadvantaged owner(s) of the potential DBE and non-DBE firms or persons associated with non-DBE firms compromise the independence of the potential DBE firm.

(3) You must examine the firm's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential DBE firm.

(4) In considering factors related to the independence of a potential DBE firm, you must consider the consistency of

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relationships between the potential DBE and non-DBE firms with normal industry practice.

(c) A DBE firm must not be subject to any formal or informal restrictions which limit the customary discretion of the socially and economically disadvantaged owners. There can be no restrictions through corporate charter provisions, by-law provisions, contracts or any other formal or informal devices (e.g., cumulative voting rights, voting powers attached to different classes of stock, employment contracts, requirements for concurrence by non-disadvantaged partners, conditions precedent or subsequent, executory agreements, voting trusts, restrictions on or assignments of voting rights) that prevent the socially and economically disadvantaged owners, without the cooperation or vote of any non-disadvantaged individual, from making any business decision of the firm. This paragraph does not preclude a spousal co-signature on documents as provided for in §26.69(j)(2).

(d) The socially and economically disadvantaged owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term decisions on matters of management, policy and operations.

(1) A disadvantaged owner must hold the highest officer position in the company (e.g., chief executive officer or president).

(2) In a corporation, disadvantaged owners must control the board of directors.

(3) In a partnership, one or more disadvantaged owners must serve as general partners, with control over all partnership decisions.

(e) Individuals who are not socially and economically disadvantaged may be involved in a DBE firm as owners, managers, employees, stockholders, officers, and/or directors. Such individuals must not, however, possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm.

(f) The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such delegations of authority must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially and economically disadvantaged owners in the firm's overall affairs must be such that the recipient can reasonably conclude that the socially and economically disadvantaged owners actually exercise control over the firm's operations, management, and policy.

(g) The socially and economically disadvantaged owners must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged and the firm's operations. The socially and economically disadvantaged owners are not required to have experience or expertise in every critical area of the firm's operations, or to have greater experience or expertise in a given field than managers or key employees. The socially and economically disadvantaged owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm is insufficient to demonstrate control.

(h) If state or local law requires the persons to have a particular license or other credential in order to own and/or control a certain type of firm, then the socially and economically disadvantaged persons who own and control a potential DBE firm of that type must possess the required license or credential. If state or local law does not require such a person to have such a license or credential to own and/or control a firm, you must not deny certification solely on the ground that the person lacks the license or credential. However, you may take into account the absence of the license or credential as one factor in determining whether the socially and economically disadvantaged owners actually control the firm.

(i)(1) You may consider differences in remuneration between the socially and economically disadvantaged owners and other participants in the firm in determining whether to certify a firm as a DBE. Such consideration shall be in the context of the duties of the persons involved, normal industry practices, the firm's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the firm. You may determine that a firm is controlled by its socially and economically disadvantaged owner although that owner's remuneration is lower than that of some other participants in the firm.

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(2) In a case where a non-disadvantaged individual formerly controlled the firm, and a socially and economically disadvantaged individual now controls it, you may consider a difference between the remuneration of the former and current controller of the firm as a factor in determining who controls the firm, particularly when the non-disadvantaged individual remains involved with the firm and continues to receive greater compensation than the disadvantaged individual.

(j) In order to be viewed as controlling a firm, a socially and economically disadvantaged owner cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.

(k)(1) A socially and economically disadvantaged individual may control a firm even though one or more of the individual's immediate family members (who themselves are not socially and economically disadvantaged individuals) participate in the firm as a manager, employee, owner, or in another capacity. Except as otherwise provided in this paragraph, you must make a judgment about the control the socially and economically disadvantaged owner exercises vis-a-vis other persons involved in the business as you do in other situations, without regard to whether or not the other persons are immediate family members.

(2) If you cannot determine that the socially and economically disadvantaged owners -- as distinct from the family as a whole -- control the firm, then the socially and economically disadvantaged owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities.

(l) Where a firm was formerly owned and/or controlled by a non-disadvantaged individual (whether or not an immediate family member), ownership and/or control were transferred to a socially and economically disadvantaged individual, and the non-disadvantaged individual remains involved with the firm in any capacity, the disadvantaged individual now owning the firm must demonstrate to you, by clear and convincing evidence, that:

(1) The transfer of ownership and/or control to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(2) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who formerly owned and/or controlled the firm.

(m) In determining whether a firm is controlled by its socially and economically disadvantaged owners, you may consider whether the firm owns equipment necessary to perform its work. However, you must not determine that a firm is not controlled by socially and economically disadvantaged individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.

(n) You must grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm need demonstrate to you only that its socially and economically disadvantaged owners are able to control the firm with respect to that type of work. You may not, in this situation, require that the firm be recertified or submit a new application for certification, but you must verify the disadvantaged owner's control of the firm in the additional type of work.

(o) A business operating under a franchise or license agreement may be certified if it meets the standards in this subpart and the franchiser or licensor is not affiliated with the franchisee or licensee. In determining whether affiliation exists, you should generally not consider the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.

(p) In order for a partnership to be controlled by socially and economically disadvantaged individuals, any non-disadvantaged partners must not have the power, without the specific written concurrence of the socially and economically disadvantaged partner(s), to contractually bind the partnership or subject the partnership to contract or tort liability.

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(q) The socially and economically disadvantaged individuals controlling a firm may use an employee leasing company. The use of such a company does not preclude the socially and economically disadvantaged individuals from controlling their firm if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the employees, as well as ultimate responsibility for wage and tax obligations related to the employees.

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§26.73 What are other rules affecting certification?

(a)(1) Consideration of whether a firm performs a commercially useful function or is a regular dealer pertains solely to counting toward DBE goals the participation of firms that have already been certified as DBEs. Except as provided in paragraph (a)(2) of this section, you must not consider commercially useful function issues in any way in making decisions about whether to certify a firm as a DBE.

(2) You may consider, in making certification decisions, whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program.

(b) You must evaluate the eligibility of a firm on the basis of present circumstances. You must not refuse to certify a firm based solely on historical information indicating a lack of ownership or control of the firm by socially and economically disadvantaged individuals at some time in the past, if the firm currently meets the ownership and control standards of this part. Nor must you refuse to certify a firm solely on the basis that it is a newly formed firm.

(c) DBE firms and firms seeking DBE certification shall cooperate fully with your requests (and DOT requests) for information relevant to the certification process. Failure or refusal to provide such information is a ground for a denial or removal of certification.

(d) Only firms organized for profit may be eligible DBEs. Not-for-profit organizations, even though controlled by socially and economically disadvantaged individuals, are not eligible to be certified as DBEs.

(e) An eligible DBE firm must be owned by individuals who are socially and economically disadvantaged. Except as provided in this paragraph, a firm that is not owned by such individuals, but instead is owned by another firm -- even a DBE firm -- cannot be an eligible DBE.

(1) If socially and economically disadvantaged individuals own and control a firm through a parent or holding company, established for tax, capitalization or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, you may certify the subsidiary if it otherwise meets all requirements of this subpart. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.

(2) You may certify such a subsidiary only if there is cumulatively 51 percent ownership of the subsidiary by socially and economically disadvantaged individuals. The following examples illustrate how this cumulative ownership provision works:

Example 1: Socially and economically disadvantaged individuals own 100 percent of a holding company, which has a wholly-owned subsidiary. The subsidiary may be certified, if it meets all other requirements.

Example 2: Disadvantaged individuals own 100 percent of the holding company, which owns 51 percent of a subsidiary. The subsidiary may be certified, if all other requirements are met.

Example 3: Disadvantaged individuals own 80 percent of the holding company, which in turn owns 70 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is 56 percent (80 percent of the 70 percent). This is more than 51 percent, so you may certify the subsidiary, if all other requirements are met.

Example 4: Same as Example 2 or 3, but someone other than the socially and economically disadvantaged owners of the parent or holding

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company controls the subsidiary. Even though the subsidiary is owned by disadvantaged individuals, through the holding or parent company, you cannot certify it because it fails to meet control requirements.

Example 5: Disadvantaged individuals own 60 percent of the holding company, which in turn owns 51 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is about 31 percent. This is less than 51 percent, so you cannot certify the subsidiary.

Example 6: The holding company, in addition to the subsidiary seeking certification, owns several other companies. The combined gross receipts of the holding companies and its subsidiaries are greater than the size standard for the subsidiary seeking certification and/or the gross receipts cap of §26.65(b). Under the rules concerning affiliation, the subsidiary fails to meet the size standard and cannot be certified.

(f) Recognition of a business as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is an independent business, owned and controlled by socially and economically disadvantaged individuals.

(g) You must not require a DBE firm to be prequalified as a condition for certification unless the recipient requires all firms that participate in its contracts and subcontracts to be prequalified.

(h) A firm that is owned by an Indian tribe or Native Hawaiian organization, rather than by Indians or Native Hawaiians as individuals, may be eligible for certification. Such a firm must meet the size standards of §26.35. Such a firm must be controlled by socially and economically disadvantaged individuals, as provided in §26.71.

(i) The following special rules apply to the certification of firms related to Alaska Native Corporations (ANCs).

(1) Notwithstanding any other provisions of this subpart, a direct or indirect subsidiary corporation, joint venture, or partnership entity of an ANC is eligible for certification as a DBE if it meets all of the following requirements:

(i) The Settlement Common Stock of the underlying ANC and other stock of the ANC held by holders of the Settlement Common Stock and by Natives and descendants of Natives represents a majority of both the total equity of the ANC and the total voting power of the corporation for purposes of electing directors;

(ii) The shares of stock or other units of common ownership interest in the subsidiary, joint venture, or partnership entity held by the ANC and by holders of its Settlement Common Stock represent a majority of both the total equity of the entity and the total voting power of the entity for the purpose of electing directors, the general partner, or principal officers; and

(iii) The subsidiary, joint venture, or partnership entity has been certified by the Small Business Administration under the 8(a) or small disadvantaged business program.

(2) As a recipient to whom an ANC-related entity applies for certification, you do not use the DOT uniform application form (see Appendix F of this part). You must obtain from the firm documentation sufficient to demonstrate that entity meets the requirements of paragraph (i)(1) of this section. You must also obtain sufficient information about the firm to allow you to administer your program (e.g., information that would appear in your DBE Directory).

(3) If an ANC-related firm does not meet all the conditions of paragraph (i)(1) of this section, then it must meet the requirements of paragraph (h) of this section in order to be certified, on the same basis as firms owned by Indian Tribes or Native Hawaiian Organizations.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003]

Subpart E -- Certification Procedures

[TOP]

§26.81 What are the requirements for Unified Certification Programs?

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<http://ecfrback.access.gpo.gov/otcqi/cfr/otfilter.cgi?DB=3&query=49000000026®ion=BIB...> 7/1/04

(a) You and all other DOT recipients in your state must participate in a Unified Certification Program (UCP).

(1) Within three years of March 4, 1999, you and the other recipients in your state must sign an agreement establishing the UCP for that state and submit the agreement to the Secretary for approval. The Secretary may, on the basis of extenuating circumstances shown by the recipients in the state, extend this deadline for no more than one additional year.

(2) The agreement must provide for the establishment of a UCP meeting all the requirements of this section. The agreement must specify that the UCP will follow all certification procedures and standards of this part, on the same basis as recipients; that the UCP shall cooperate fully with oversight, review, and monitoring activities of DOT and its operating administrations; and that the UCP shall implement DOT directives and guidance concerning certification matters. The agreement shall also commit recipients to ensuring that the UCP has sufficient resources and expertise to carry out the requirements of this part. The agreement shall include an implementation schedule ensuring that the UCP is fully operational no later than 18 months following the approval of the agreement by the Secretary.

(3) Subject to approval by the Secretary, the UCP in each state may take any form acceptable to the recipients in that state.

(4) The Secretary shall review the UCP and approve it, disapprove it, or remand it to the recipients in the state for revisions. A complete agreement which is not disapproved or remanded within 180 days of its receipt is deemed to be accepted.

(5) If you and the other recipients in your state fail to meet the deadlines set forth in this paragraph (a), you shall have the opportunity to make an explanation to the Secretary why a deadline could not be met and why meeting the deadline was beyond your control. If you fail to make such an explanation, or the explanation does not justify the failure to meet the deadline, the Secretary shall direct you to complete the required action by a date certain. If you and the other recipients fail to carry out this direction in a timely manner, you are collectively in noncompliance with this part.

(b) The UCP shall make all certification decisions on behalf of all DOT recipients in the state with respect to participation in the DOT DBE Program.

(1) Certification decisions by the UCP shall be binding on all DOT recipients within the state.

(2) The UCP shall provide "one-stop shopping" to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.

(3) All obligations of recipients with respect to certification and nondiscrimination must be carried out by UCPs, and recipients may use only UCPs that comply with the certification and nondiscrimination requirements of this part.

(c) All certifications by UCPs shall be pre-certifications; i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.

(d) A UCP is not required to process an application for certification from a firm having its principal place of business outside the state if the firm is not certified by the UCP in the state in which it maintains its principal place of business. The "home state" UCP shall share its information and documents concerning the firm with other UCPs that are considering the firm's application.

(e) Subject to DOT approval as provided in this section, the recipients in two or more states may form a regional UCP. UCPs may also enter into written reciprocity agreements with other UCPs. Such an agreement shall outline the specific responsibilities of each participant. A UCP may accept the certification of any other UCP or DOT recipient.

(f) Pending the establishment of UCPs meeting the requirements of this section, you may enter into agreements with other recipients, on a regional or inter-jurisdictional basis, to perform certification functions required by this part. You may also grant reciprocity to other recipient's certification decisions.

(g) Each UCP shall maintain a unified DBE directory containing, for all firms certified by the UCP (including those from other states certified under the provisions of this section), the information required by §26.31. The UCP shall make the directory available to the public electronically, on the internet, as well as in print. The UCP shall update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made.

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(h) Except as otherwise specified in this section, all provisions of this subpart and subpart D of this part pertaining to recipients also apply to UCPs.

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§26.83 What procedures do recipients follow in making certification decisions?

(a) You must ensure that only firms certified as eligible DBEs under this section participate as DBEs in your program.

(b) You must determine the eligibility of firms as DBEs consistent with the standards of subpart D of this part. When a UCP is formed, the UCP must meet all the requirements of subpart D of this part and this subpart that recipients are required to meet.

(c) You must take all the following steps in determining whether a DBE firm meets the standards of subpart D of this part:

(1) Perform an on-site visit to the offices of the firm. You must interview the principal officers of the firm and review their resumes and/or work histories. You must also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in your jurisdiction or local area. You may rely upon the site visit report of any other recipient with respect to a firm applying for certification;

(2) If the firm is a corporation, analyze the ownership of stock in the firm;

(3) Analyze the bonding and financial capacity of the firm;

(4) Determine the work history of the firm, including contracts it has received and work it has completed;

(5) Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program and its preferred locations for performing the work, if any;

(6) Obtain or compile a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the DBE program;

(7) Require potential DBEs to complete and submit an appropriate application form, unless the potential DBE is an SBA certified firm applying pursuant to the DOT/SBA MOU.

(i) You must use the application form provided in Appendix F to this part without change or revision. However, you may provide in your DBE program, with the approval of the concerned operating administration, for supplementing the form by requesting additional information not inconsistent with this part.

(ii) You must make sure that the applicant attests to the accuracy and truthfulness of the information on the application form. This shall be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.

(iii) You must review all information on the form prior to making a decision about the eligibility of the firm.

(d) When another recipient, in connection with its consideration of the eligibility of a firm, makes a written request for certification information you have obtained about that firm (e.g., including application materials or the report of a site visit, if you have made one to the firm), you must promptly make the information available to the other recipient.

(e) When another DOT recipient has certified a firm, you have discretion to take any of the following actions:

(1) Certify the firm in reliance on the certification decision of the other recipient;

(2) Make an independent certification decision based on documentation provided by the other recipient, augmented by any additional information you require the applicant to provide; or

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- (3) Require the applicant to go through your application process without regard to the action of the other recipient.
- (f) Subject to the approval of the concerned operating administration as part of your DBE program, you may impose a reasonable application fee for certification. Fee waivers shall be made in appropriate cases.
- (g) You must safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable Federal, state, and local law.
- (h) Once you have certified a DBE, it shall remain certified for a period of at least three years unless and until its certification has been removed through the procedures of §26.87. You may not require DBEs to reapply for certification as a condition of continuing to participate in the program during this three-year period, unless the factual basis on which the certification was made changes.
- (i) If you are a DBE, you must inform the recipient or UCP in writing of any change in circumstances affecting your ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material change in the information provided in your application form.
- (1) Changes in management responsibility among members of a limited liability company are covered by this requirement.
- (2) You must attach supporting documentation describing in detail the nature of such changes.
- (3) The notice must take the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. You must provide the written notification within 30 days of the occurrence of the change. If you fail to make timely notification of such a change, you will be deemed to have failed to cooperate under §26.109(c).
- (j) If you are a DBE, you must provide to the recipient, every year on the anniversary of the date of your certification, an affidavit sworn to by the firm's owners before a person who is authorized by state law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. This affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which you have notified the recipient under paragraph (i) of this section. The affidavit shall specifically affirm that your firm continues to meet SBA business size criteria and the overall gross receipts cap of this part, documenting this affirmation with supporting documentation of your firm's size and gross receipts. If you fail to provide this affidavit in a timely manner, you will be deemed to have failed to cooperate under §26.109(c).
- (k) If you are a recipient, you must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. You may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. You may establish a different time frame in your DBE program, upon a showing that this time frame is not feasible, and subject to the approval of the concerned operating administration. Your failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT under §26.89.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003]

[\[TOP\]](#)

§26.84 How do recipients process applications submitted pursuant to the DOT/SBA MOU?

- (a) When an SBA-certified firm applies for certification pursuant to the DOT/SBA MOU, you must accept the certification applications, forms and packages submitted by a firm to the SBA for either the 8(a) BD or SDB programs, in lieu of requiring the applicant firm to complete your own application forms and packages. The applicant may submit the package directly, or may request that the SBA forward the package to you. Pursuant to the MOU, the SBA will forward the package within thirty days.
- (b) If necessary, you may request additional relevant information from the SBA. The SBA will provide this additional

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material within forty-five days of your written request.

(c) Before certifying a firm based on its 8(a) BD or SDB certification, you must conduct an on-site review of the firm (*see* §26.83(c)(1)). If the SBA conducted an on-site review, you may rely on the SBA's report of the on-site review. In connection with this review, you may also request additional relevant information from the firm.

(d) Unless you determine, based on the on-site review and information obtained in connection with it, that the firm does not meet the eligibility requirements of Subpart D of this part, you must certify the firm.

(e) You are not required to process an application for certification from an SBA-certified firm having its principal place of business outside the state(s) in which you operate unless there is a report of a "home state" on-site review on which you may rely.

(f) You are not required to process an application for certification from an SBA-certified firm if the firm does not provide products or services that you use in your DOT-assisted programs or airport concessions.

[68 FR 35555, June 16, 2003]

[\[TOP\]](#)

§26.85 How do recipients respond to requests from DBE-certified firms or the SBA made pursuant to the DOT/SBA MOU?

(a) Upon receipt of a signed, written request from a DBE-certified firm, you must transfer to the SBA a copy of the firm's application package. You must transfer this information within thirty days of receipt of the request.

(b) If necessary, the SBA may make a written request to the recipient for additional materials (*e.g.*, the report of the on-site review). You must provide a copy of this material to the SBA within forty-five days of the additional request.

(c) You must provide appropriate assistance to SBA-certified firms, including providing information pertaining to the DBE application process, filing locations, required documentation and status of applications.

[68 FR 35555, June 16, 2003]

[\[TOP\]](#)

§26.86 What rules govern recipients' denials of initial requests for certification?

(a) When you deny a request by a firm, which is not currently certified with you, to be certified as a DBE, you must provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant, on request.

(b) When you deny DBE certification to a firm certified by the SBA, you must notify the SBA in writing. The notification must include the reason for denial.

(c) When a firm is denied certification, you must establish a time period of no more than twelve months that must elapse before the firm may reapply to the recipient for certification. You may provide, in your DBE program, subject to approval by the concerned operating administration, a shorter waiting period for reapplication. The time period for reapplication begins to run on the date the explanation required by paragraph (a) of this section is received by the firm.

(d) When you make an administratively final denial of certification concerning a firm, the firm may appeal the denial to the Department under §26.89.

[64 FR 5126, Feb. 2, 1999. Redesignated and amended at 68 FR 35555, June 16, 2003]

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[\[TOP\]](#)**§26.87 What procedures does a recipient use to remove a DBE's eligibility?**

(a) *Ineligibility complaints.* (1) Any person may file with you a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. You are not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in §26.109(b).

(2) You must review your records concerning the firm, any material provided by the firm and the complainant, and other available information. You may request additional information from the firm or conduct any other investigation that you deem necessary.

(3) If you determine, based on this review, that there is reasonable cause to believe that the firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. If you determine that such reasonable cause does not exist, you must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(b) *Recipient-initiated proceedings.* If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) *DOT directive to initiate proceeding.* (1) If the concerned operating administration determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.

(2) The concerned operating administration must provide you and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.

(3) You must immediately commence and prosecute a proceeding to remove eligibility as provided by paragraph (b) of this section.

(d) *Hearing.* When you notify a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, you must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(1) In such a proceeding, you bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

(2) You must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under §26.89, you must provide a transcript of the hearing to DOT and, on request, to the firm. You must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.

(3) The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, you bear the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as you would during a hearing.

(e) *Separation of functions.* You must ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's

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eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

(1) Your method of implementing this requirement must be made part of your DBE program.

(2) The decisionmaker must be an individual who is knowledgeable about the certification requirements of your DBE program and this part.

(3) Before a UCP is operational in its state, a small airport or small transit authority (i.e., an airport or transit authority serving an area with less than 250,000 population) is required to meet this requirement only to the extent feasible.

(f) *Grounds for decision.* You must not base a decision to remove eligibility on a reinterpretation or changed opinion of information available to the recipient at the time of its certification of the firm. You may base such a decision only on one or more of the following:

(1) Changes in the firm's circumstances since the certification of the firm by the recipient that render the firm unable to meet the eligibility standards of this part;

(2) Information or evidence not available to you at the time the firm was certified;

(3) Information that was concealed or misrepresented by the firm in previous certification actions by a recipient;

(4) A change in the certification standards or requirements of the Department since you certified the firm; or

(5) A documented finding that your determination to certify the firm was factually erroneous.

(g) *Notice of decision.* Following your decision, you must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of your decision and of the availability of an appeal to the Department of Transportation under §26.89. You must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed you to initiate the proceeding.

(h) When you decertify a DBE firm certified by the SBA, you must notify the SBA in writing. The notification must include the reason for denial.

(i) *Status of firm during proceeding.* (1) A firm remains an eligible DBE during the pendency of your proceeding to remove its eligibility.

(2) The firm does not become ineligible until the issuance of the notice provided for in paragraph (g) of this section.

(j) *Effects of removal of eligibility.* When you remove a firm's eligibility, you must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before you have notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where you have let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after you issued the notice of its ineligibility shall not count toward your overall goal, but may count toward the contract goal.

(3) *Exception:* If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, you may continue to count its participation on that contract toward overall and contract goals.

(k) *Availability of appeal.* When you make an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the Department under §26.89.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003]

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§26.89 What is the process for certification appeals to the Department of Transportation?

(a)(1) If you are a firm that is denied certification or whose eligibility is removed by a recipient, including SBA-certified firms applying pursuant to the DOT/SBA MOU, you may make an administrative appeal to the Department.

(2) If you are a complainant in an ineligibility complaint to a recipient (including the concerned operating administration in the circumstances provided in §26.87(c)), you may appeal to the Department if the recipient does not find reasonable cause to propose removing the firm's eligibility or, following a removal of eligibility proceeding, determines that the firm is eligible.

(3) Send appeals to the following address: Department of Transportation, Office of Civil Rights, 400 7th Street, SW, Room 5414, Washington, DC 20590.

(b) Pending the Department's decision in the matter, the recipient's decision remains in effect. The Department does not stay the effect of the recipient's decision while it is considering an appeal.

(c) If you want to file an appeal, you must send a letter to the Department within 90 days of the date of the recipient's final decision, including information and arguments concerning why the recipient's decision should be reversed. The Department may accept an appeal filed later than 90 days after the date of the decision if the Department determines that there was good cause for the late filing of the appeal.

(1) If you are an appellant who is a firm which has been denied certification, whose certification has been removed, whose owner is determined not to be a member of a designated disadvantaged group, or concerning whose owner the presumption of disadvantage has been rebutted, your letter must state the name and address of any other recipient which currently certifies the firm, which has rejected an application for certification from the firm or removed the firm's eligibility within one year prior to the date of the appeal, or before which an application for certification or a removal of eligibility is pending. Failure to provide this information may be deemed a failure to cooperate under §26.109(c).

(2) If you are an appellant other than one described in paragraph (c)(1) of this section, the Department will request, and the firm whose certification has been questioned shall promptly provide, the information called for in paragraph (c)(1) of this section. Failure to provide this information may be deemed a failure to cooperate under §26.109(c).

(d) When it receives an appeal, the Department requests a copy of the recipient's complete administrative record in the matter. If you are the recipient, you must provide the administrative record, including a hearing transcript, within 20 days of the Department's request. The Department may extend this time period on the basis of a recipient's showing of good cause. To facilitate the Department's review of a recipient's decision, you must ensure that such administrative records are well organized, indexed, and paginated. Records that do not comport with these requirements are not acceptable and will be returned to you to be corrected immediately. If an appeal is brought concerning one recipient's certification decision concerning a firm, and that recipient relied on the decision and/or administrative record of another recipient, this requirement applies to both recipients involved.

(e) The Department makes its decision based solely on the entire administrative record. The Department does not make a de novo review of the matter and does not conduct a hearing. The Department may supplement the administrative record by adding relevant information made available by the DOT Office of Inspector General; Federal, state, or local law enforcement authorities; officials of a DOT operating administration or other appropriate DOT office; a recipient; or a firm or other private party.

(f) As a recipient, when you provide supplementary information to the Department, you shall also make this information available to the firm and any third-party complainant involved, consistent with Federal or applicable state laws concerning freedom of information and privacy. The Department makes available, on request by the firm and any third-party complainant involved, any supplementary information it receives from any source.

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(1) The Department affirms your decision unless it determines, based on the entire administrative record, that your decision is unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification.

(2) If the Department determines, after reviewing the entire administrative record, that your decision was unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification, the Department reverses your decision and directs you to certify the firm or remove its eligibility, as appropriate. You must take the action directed by the Department's decision immediately upon receiving written notice of it.

(3) The Department is not required to reverse your decision if the Department determines that a procedural error did not result in fundamental unfairness to the appellant or substantially prejudice the opportunity of the appellant to present its case.

(4) If it appears that the record is incomplete or unclear with respect to matters likely to have a significant impact on the outcome of the case, the Department may remand the record to you with instructions seeking clarification or augmentation of the record before making a finding. The Department may also remand a case to you for further proceedings consistent with Department instructions concerning the proper application of the provisions of this part.

(5) The Department does not uphold your decision based on grounds not specified in your decision.

(6) The Department's decision is based on the status and circumstances of the firm as of the date of the decision being appealed.

(7) The Department provides written notice of its decision to you, the firm, and the complainant in an ineligibility complaint. A copy of the notice is also sent to any other recipient whose administrative record or decision has been involved in the proceeding (*see* paragraph (d) of this section). The Department will also notify the SBA in writing when DOT takes an action on an appeal that results in or confirms a loss of eligibility to any SBA-certified firm. The notice includes the reasons for the Department's decision, including specific references to the evidence in the record that supports each reason for the decision.

(8) The Department's policy is to make its decision within 180 days of receiving the complete administrative record. If the Department does not make its decision within this period, the Department provides written notice to concerned parties, including a statement of the reason for the delay and a date by which the appeal decision will be made.

(g) All decisions under this section are administratively final, and are not subject to petitions for reconsideration.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35556, June 16, 2003]

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§26.91 What actions do recipients take following DOT certification appeal decisions?

(a) If you are the recipient from whose action an appeal under §26.89 is taken, the decision is binding. It is not binding on other recipients.

(b) If you are a recipient to which a DOT determination under §26.89 is applicable, you must take the following action:

(1) If the Department determines that you erroneously certified a firm, you must remove the firm's eligibility on receipt of the determination, without further proceedings on your part. Effective on the date of your receipt of the Department's determination, the consequences of a removal of eligibility set forth in §26.87(i) take effect.

(2) If the Department determines that you erroneously failed to find reasonable cause to remove the firm's eligibility, you must expeditiously commence a proceeding to determine whether the firm's eligibility should be removed, as provided in §26.87.

(3) If the Department determines that you erroneously declined to certify or removed the eligibility of the firm, you must certify the firm, effective on the date of your receipt of the written notice of Department's determination.

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(4) If the Department determines that you erroneously determined that the presumption of social and economic disadvantage either should or should not be deemed rebutted, you must take appropriate corrective action as determined by the Department.

(5) If the Department affirms your determination, no further action is necessary.

(c) Where DOT has upheld your denial of certification to or removal of eligibility from a firm, or directed the removal of a firm's eligibility, other recipients with whom the firm is certified may commence a proceeding to remove the firm's eligibility under §26.87. Such recipients must not remove the firm's eligibility absent such a proceeding. Where DOT has reversed your denial of certification to or removal of eligibility from a firm, other recipients must take the DOT action into account in any certification action involving the firm. However, other recipients are not required to certify the firm based on the DOT decision.

Subpart F -- Compliance and Enforcement

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§26.101 What compliance procedures apply to recipients?

(a) If you fail to comply with any requirement of this part, you may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

(b) As provided in statute, you will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because you have been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

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§26.103 What enforcement actions apply in FHWA and FTA programs?

The provisions of this section apply to enforcement actions under FHWA and FTA programs:

(a) *Noncompliance complaints.* Any person who believes that a recipient has failed to comply with its obligations under this part may file a written complaint with the concerned operating administration's Office of Civil Rights. If you want to file a complaint, you must do so no later than 180 days after the date of the alleged violation or the date on which you learned of a continuing course of conduct in violation of this part. In response to your written request, the Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of your identity as provided in §26.109(b). Complaints under this part are limited to allegations of violation of the provisions of this part.

(b) *Compliance reviews.* The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.

(c) *Reasonable cause notice.* If it appears, from the investigation of a complaint or the results of a compliance review, that you, as a recipient, are in noncompliance with this part, the appropriate DOT office promptly sends you, return receipt requested, a written notice advising you that there is reasonable cause to find you in noncompliance. The notice states the reasons for this finding and directs you to reply within 30 days concerning whether you wish to begin conciliation.

(d) *Conciliation.* (1) If you request conciliation, the appropriate DOT office shall pursue conciliation for at least 30, but not more than 120, days from the date of your request. The appropriate DOT office may extend the conciliation period for up to 30 days for good cause, consistent with applicable statutes.

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- (2) If you and the appropriate DOT office sign a conciliation agreement, then the matter is regarded as closed and you are regarded as being in compliance. The conciliation agreement sets forth the measures you have taken or will take to ensure compliance. While a conciliation agreement is in effect, you remain eligible for FHWA or FTA financial assistance.
- (3) The concerned operating administration shall monitor your implementation of the conciliation agreement and ensure that its terms are complied with. If you fail to carry out the terms of a conciliation agreement, you are in noncompliance.
- (4) If you do not request conciliation, or a conciliation agreement is not signed within the time provided in paragraph (d)(1) of this section, then enforcement proceedings begin.
- (e) *Enforcement actions.* (1) Enforcement actions are taken as provided in this subpart.
- (2) Applicable findings in enforcement proceedings are binding on all DOT offices.

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§26.105 What enforcement actions apply in FAA programs?

- (a) Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.
- (b) The provisions of §26.103(b) and this section apply to enforcement actions in FAA programs.
- (c) Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

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§26.107 What enforcement actions apply to firms participating in the DBE program?

- (a) If you are a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under 49 CFR part 29.
- (b) If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the Department may initiate suspension or debarment proceedings against you under 49 CFR part 29.
- (c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.
- (d) The Department may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.
- (e) The Department may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

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§26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?

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(a) *Availability of records.* (1) In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

(2) Notwithstanding any provision of Federal or state law, you must not release information that may be reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting documentation. However, you must transmit this information to DOT in any certification appeal proceeding under §26.89 in which the disadvantaged status of the individual is in question.

(b) *Confidentiality of information on complainants.* Notwithstanding the provisions of paragraph (a) of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing. FAA follows the procedures of 14 CFR part 16 with respect to confidentiality of information in complaints.

(c) *Cooperation.* All participants in the Department's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

(d) *Intimidation and retaliation.* If you are a recipient, contractor, or any other participant in the program, you must not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If you violate this prohibition, you are in noncompliance with this part.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003]

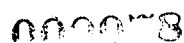
Appendix A to Part 26 -- Guidance Concerning Good Faith Efforts

I. When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II. In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere *pro forma* efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring *bona fide* good faith efforts.

IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts



may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

Appendix B to Part 26 -- Uniform Report of DBE Awards or Commitments and Payments Form

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INSTRUCTIONS FOR COMPLETING THE UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS

1. Indicate the DOT Operating Administration (OA) that provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA recipient, indicate your Vendor Number in the space provided.
2. If you are an FAA recipient, indicate the relevant AIF Numbers covered by this report. If more than six, attach a separate sheet.
3. Specify the Federal fiscal year (i.e., October 1 - September 30) in which the covered reporting period falls.
4. State the date of submission of this report.
5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. If this report is due June 1, data should cover October 1 - March 31. If this report is due December 1, data should cover April 1 - September 30. If this report is due to the FAA, data should cover the entire year.
6. Name of the recipient.
7. State your annual DBE goal(s) established for the Federal fiscal year of this report to be submitted to and approved by the relevant OA. Your Overall Goal is to be reported as well as the breakdown for specific Race Conscious and Race Neutral Goals (both of which include gender-conscious/neutral goals). The Race Conscious Goal portion should be based on programs that focus on and provide benefits only for DBEs. The use of contract goals is a primary example of a Race Conscious measure. The Race Neutral Goal portion should include programs that, while benefiting DBEs, are not solely focused on DBE firms. For example, a small business outreach program, technical assistance, and prompt payment clauses can assist a wide variety of businesses in addition to helping DBE firms.
- 8-9. The amounts in items 8(A)-9(I) should include all types of prime contracts awarded and all types of subcontracts awarded or committed, including: professional or consultant services; construction; purchase of materials or supplies; lease or purchase of equipment and any other types of services. All dollar amounts are to reflect only the Federal share of such contracts, and should be rounded to the nearest dollar.
- 8(A). Provide the total dollar amount for all prime contracts assisted with DOT funds that were awarded during this reporting period.
- 8(B). Provide the total number of all prime contracts assisted with DOT funds that were awarded during this reporting period.
- 8(C). From the total dollar amount awarded in item 8(A), provide the dollar amount awarded to certified DBEs during this reporting period.
- 8(D). From the total number of prime contracts awarded in item 8(B), specify the number awarded to certified DBEs during this reporting period.
- 8(E). From the total dollars awarded in 8(C), provide the dollar amount awarded to DBEs through the use of Race Conscious methods. See the definition of Race Conscious Goal in item 7 and the explanation of project types in item 8 to include in your calculation.
- 8(F). From the total number of prime contracts awarded in 8(D), specify the number awarded to DBEs through Race Conscious methods.
- 8(G). From the total dollar amount awarded in item 8(C), provide the dollar amount awarded to certified DBEs through the use of Race Neutral methods. See the definition of Race Neutral Goal in item 7 and the explanation of project types in item 8 to include.
- 8(H). From the total number of prime contracts awarded in 8(D), specify the number awarded to DBEs through Race Neutral methods.
- 8(I). Of all prime contracts awarded this reporting period, calculate the percentage going to DBEs. Divide the dollar amount in item 8(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.
- 9(A)-9(I). Items 9(A)-9(I) are derived in the same way as items 8(A)-8(I), except that these calculations should be based on subcontracts rather than prime contracts. Unlike prime contracts, which may only be awarded, subcontracts may be either awarded or committed.
- 10(A)-11(I). For all DBEs awarded prime contracts and awarded or committed subcontracts as indicated in 8(C)-(D) and 9(C)-(D), break the data down further by total dollar amount as well as the number of all contracts going to each ethnic group as well as to non-minority women. The "Other" category includes those DBEs who are not members of the presumptively disadvantaged groups already listed, but who are determined eligible for the DBE program on an individual basis (e.g. a Caucasian male with a disability). The TOTALS value in 10(H) should equal the sum of 8(C) plus 9(C), and similarly, the TOTALS value in 11(H) should equal the sum of 8(D) plus 9(D). Column I should only be filled out if this report is due on December 1, as indicated in item 5. The values for this column are derived by adding the values reported in column H in your first report with the values reported in this second report.
- 12(A). Provide the total number of prime contracts completed during this reporting period that had Race Conscious goals. Race Conscious contracts are those with contract goals or another Race Conscious measure.
- 12(B). Provide the total dollar value of prime contracts completed this reporting period that had Race Conscious goals.
- 12(C). Provide the total dollar amount of DBE participation on all Race Conscious prime contracts completed this reporting period that was necessary to meet the contract goals on them. This applies only to Race Conscious prime contracts.
- 12(D). Provide the actual total DBE participation in dollars on the race conscious prime contracts completed this reporting period.
- 12(E). Of all the prime contracts completed this reporting period, calculate the percentage of DBE participation. Divide the actual total dollar amount in 12(D) by the total dollar value provided in 12(B) to derive this percentage. Round to the nearest tenth.
- 13(A)-13(E). Items 13(A)-13(E) are derived in the same manner as items 12(A)-12(E), except these figures should be based on Race Neutral prime contracts (i.e. those with no race conscious measures).
- 14(A)-14(E). Calculate the totals for each column by adding the race conscious and neutral figures provided in each row above.
15. Name of the Authorized Representative preparing this form.
16. Signature of the Authorized Representative.
17. Phone number of the Authorized Representative.
18. Fax number of the Authorized Representative.

****Submit your completed report to your Regional or Division Office.**

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UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS											
Please refer to the instructions sheet for directions on filling out this form											
1. Submitted to (check only one):		1. FHWA		1. FBA		1. FTA--Vendor Number					
2. AP Numbers (FAA Recipients Only):											
3. Federal fiscal year in which reporting period falls:		FY		4. DBE This Report Submitted:							
5. Reporting period:		Report due June 1 (for period Oct. 1-Mar. 31)		Report due Dec. 1 (for period April 1-Sept. 30)							
6. Name of Recipient:											
7. Actual DBE Goal:		Race Conscious Goal		Race Neutral Goal		OVERALL Goal		%			
		A		B		C		D		E	
8. AWARD COMMITMENTS (See Instructions)		Total Dollars		Total Number		Total to DBEs (dollars)		Total to DBEs / Race Conscious (dollars)		Total to DBEs / Race Neutral (dollars)	
9. Year contracts awarded (reporting period)											
10. Year contracts awarded (reporting period)											
11. Prime contracts awarded this period											
12. Subcontract awards/commitments this period											
TOTAL											
13. DBE AWARD COMMITMENTS THIS REPORTING PERIOD (See Instructions)		A		B		C		D		E	
		Black American		Hispanic American		Native American		Subcont. Asian American		Asian-Pacific American	
14. Total Number of Contracts (Prime and Sub)											
15. Total Dollar Value											
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[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003]

Appendix C to Part 26 -- DBE Business Development Program Guidelines

The purpose of this program element is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from the recipient.

(A) Each firm that participates in a recipient's business development program (BDP) program is subject to a program term determined by the recipient. The term should consist of two stages; a developmental stage and a transitional stage.

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(B) In order for a firm to remain eligible for program participation, it must continue to meet all eligibility criteria contained in part 26.

(C) By no later than 6 months of program entry, the participant should develop and submit to the recipient a comprehensive business plan setting forth the participant's business targets, objectives and goals. The participant will not be eligible for program benefits until such business plan is submitted and approved by the recipient. The approved business plan will constitute the participant's short and long term goals and the strategy for developmental growth to the point of economic viability in non-traditional areas of work and/or work outside the DBE program.

(D) The business plan should contain at least the following:

(1) An analysis of market potential, competitive environment and other business analyses estimating the program participant's prospects for profitable operation during the term of program participation and after graduation from the program.

(2) An analysis of the firm's strengths and weaknesses, with particular attention paid to the means of correcting any financial, managerial, technical, or labor conditions which could impede the participant from receiving contracts other than those in traditional areas of DBE participation.

(3) Specific targets, objectives, and goals for the business development of the participant during the next two years, utilizing the results of the analysis conducted pursuant to paragraphs (C) and (D)(1) of this appendix;

(4) Estimates of contract awards from the DBE program and from other sources which are needed to meet the objectives and goals for the years covered by the business plan; and

(5) Such other information as the recipient may require.

(E) Each participant should annually review its currently approved business plan with the recipient and modify the plan as may be appropriate to account for any changes in the firm's structure and redefined needs. The currently approved plan should be considered the applicable plan for all program purposes until the recipient approves in writing a modified plan. The recipient should establish an anniversary date for review of the participant's business plan and contract forecasts.

(F) Each participant should annually forecast in writing its need for contract awards for the next program year and the succeeding program year during the review of its business plan conducted under paragraph (E) of this appendix. Such forecast should be included in the participant's business plan. The forecast should include:

(1) The aggregate dollar value of contracts to be sought under the DBE program, reflecting compliance with the business plan;

(2) The aggregate dollar value of contracts to be sought in areas other than traditional areas of DBE participation;

(3) The types of contract opportunities being sought, based on the firm's primary line of business; and

(4) Such other information as may be requested by the recipient to aid in providing effective business development assistance to the participant.

(G) Program participation is divided into two stages; (1) a developmental stage and (2) a transitional stage. The developmental stage is designed to assist participants to overcome their social and economic disadvantage by providing such assistance as may be necessary and appropriate to enable them to access relevant markets and strengthen their financial and managerial skills. The transitional stage of program participation follows the developmental stage and is designed to assist participants to overcome, insofar as practical, their social and economic disadvantage and to prepare the participant for leaving the program.

(H) The length of service in the program term should not be a pre-set time frame for either the developmental or transitional stages but should be figured on the number of years considered necessary in normal progression of achieving the firm's established goals and objectives. The setting of such time could be factored on such items as, but not limited to, the number of contracts, aggregate amount of the contract received, years in business, growth potential, etc.

(I) Beginning in the first year of the transitional stage of program participation, each participant should annually submit for inclusion in its business plan a transition management plan outlining specific steps to promote profitable business operations in areas other than traditional areas of DBE participation after graduation from the program. The transition management plan should be submitted to the recipient at the same time other modifications are submitted pursuant to the annual review under paragraph (E) of this section. The plan should set forth the same information as required under paragraph (F) of steps the participant will take to continue its business development after the expiration of its program term.

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(J) When a participant is recognized as successfully completing the program by substantially achieving the targets, objectives and goals set forth in its program term, and has demonstrated the ability to compete in the marketplace, its further participation within the program may be determined by the recipient.

(K) In determining whether a concern has substantially achieved the goals and objectives of its business plan, the following factors, among others, should be considered by the recipient:

- (1) Profitability;
- (2) Sales, including improved ratio of non-traditional contracts to traditional-type contracts;
- (3) Net worth, financial ratios, working capital, capitalization, access to credit and capital;
- (4) Ability to obtain bonding;
- (5) A positive comparison of the DBE's business and financial profile with profiles of non-DBE businesses in the same area or similar business category; and
- (6) Good management capacity and capability.

(L) Upon determination by the recipient that the participant should be graduated from the developmental program, the recipient should notify the participant in writing of its intent to graduate the firm in a letter of notification. The letter of notification should set forth findings, based on the facts, for every material issue relating to the basis of the program graduation with specific reasons for each finding. The letter of notification should also provide the participant 45 days from the date of service of the letter to submit in writing information that would explain why the proposed basis of graduation is not warranted.

(M) Participation of a DBE firm in the program may be discontinued by the recipient prior to expiration of the firm's program term for good cause due to the failure of the firm to engage in business practices that will promote its competitiveness within a reasonable period of time as evidenced by, among other indicators, a pattern of inadequate performance or unjustified delinquent performance. Also, the recipient can discontinue the participation of a firm that does not actively pursue and bid on contracts, and a firm that, without justification, regularly fails to respond to solicitations in the type of work it is qualified for and in the geographical areas where it has indicated availability under its approved business plan. The recipient should take such action if over a 2-year period a DBE firm exhibits such a pattern.

Appendix D to Part 26 -- Mentor-Prote ge Program Guidelines

(A) The purpose of this program element is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from other firms. To operate a mentor-prote ge program, a recipient must obtain the approval of the concerned operating administration.

(B)(1) Any mentor-prote ge relationship shall be based on a written development plan, approved by the recipient, which clearly sets forth the objectives of the parties and their respective roles, the duration of the arrangement and the services and resources to be provided by the mentor to the prote ge . The formal mentor-prote ge agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the prote ge through the life of the agreement. Services provided by the mentor may be reimbursable under the FTA, FHWA, and FAA programs.

(2) To be eligible for reimbursement, the mentor's services provided and associated costs must be directly attributable and properly allowable to specific individual contracts. The recipient may establish a line item for the mentor to quote the portion of the fee schedule expected to be provided during the life of the contract. The amount claimed shall be verified by the recipient and paid on an incremental basis representing the time the prote ge is working on the contract. The total individual contract figures accumulated over the life of the agreement shall not exceed the amount stipulated in the original mentor/prote ge agreement.

(C) DBEs involved in a mentor-prote ge agreement must be independent business entities which meet the requirements for certification as defined in subpart D of this part. A prote ge firm must be certified *before* it begins participation in a mentor-prote ge arrangement. If the recipient chooses to recognize mentor/prote ge agreements, it should establish formal general program guidelines. These guidelines must be submitted to the operating administration for approval prior to the recipient executing an individual contractor/ subcontractor mentor-prote ge agreement.

Appendix E to Part 26 -- Individual Determinations of Social and Economic Disadvantage

The following guidance is adapted, with minor modifications, from SBA regulations concerning social and economic disadvantage determinations (see 13 CFR 124.103(c) and 124.104).

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SOCIAL DISADVANTAGE

I. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. Social disadvantage must stem from circumstances beyond their control. Evidence of individual social disadvantage must include the following elements:

(A) At least one objective distinguishing feature that has contributed to social disadvantage, such as race, ethnic origin, gender, disability, long-term residence in an environment isolated from the mainstream of American society, or other similar causes not common to individuals who are not socially disadvantaged;

(B) Personal experiences of substantial and chronic social disadvantage in American society, not in other countries; and

(C) Negative impact on entry into or advancement in the business world because of the disadvantage. Recipients will consider any relevant evidence in assessing this element. In every case, however, recipients will consider education, employment and business history, where applicable, to see if the totality of circumstances shows disadvantage in entering into or advancing in the business world.

(1) *Education.* Recipients will consider such factors as denial of equal access to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures which discouraged the individual from pursuing a professional or business education.

(2) *Employment.* Recipients will consider such factors as unequal treatment in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory or discriminatory behavior by an employer or labor union; and social patterns or pressures which have channeled the individual into non-professional or non-business fields.

(3) *Business history.* The recipient will consider such factors as unequal access to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for government contracts or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.

II. With respect to paragraph I.(A) of this appendix, the Department notes that people with disabilities have disproportionately low incomes and high rates of unemployment. Many physical and attitudinal barriers remain to their full participation in education, employment, and business opportunities available to the general public. The Americans with Disabilities Act (ADA) was passed in recognition of the discrimination faced by people with disabilities. It is plausible that many individuals with disabilities -- especially persons with severe disabilities (e.g., significant mobility, vision, or hearing impairments) -- may be socially and economically disadvantaged.

III. Under the laws concerning social and economic disadvantage, people with disabilities are not a group presumed to be disadvantaged. Nevertheless, recipients should look carefully at individual showings of disadvantage by individuals with disabilities, making a case-by-case judgment about whether such an individual meets the criteria of this appendix. As public entities subject to Title II of the ADA, recipients must also ensure their DBE programs are accessible to individuals with disabilities. For example, physical barriers or the lack of application and information materials in accessible formats cannot be permitted to thwart the access of potential applicants to the certification process or other services made available to DBEs and applicants.

ECONOMIC DISADVANTAGE

(A) *General.* Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.

(B) *Submission of narrative and financial information.*

(1) Each individual claiming economic disadvantage must describe the conditions which are the basis for the claim in a narrative statement, and must submit personal financial information.

(2) [Reserved]

(C) *Factors to be considered.* In considering diminished capital and credit opportunities, recipients will examine factors relating to the personal financial condition of any individual claiming disadvantaged status, including personal income for the past two years (including bonuses and the value of company stock given in lieu of cash), personal net worth, and the fair market value of all assets, whether encumbered or not. Recipients will also consider the financial condition of the applicant compared to the financial profiles of small businesses in the same primary industry classification, or, if not available, in similar lines of business, which are not owned and controlled by socially and economically disadvantaged individuals in evaluating the individual's access to credit and capital. The financial profiles that recipients will compare include total assets, net sales, pre-tax profit, sales/working capital ratio, and net worth.

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(D) Transfers within two years.

(1) Except as set forth in paragraph (D)(2) of this appendix, recipients will attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, or to a trust, a beneficiary of which is an immediate family member, for less than fair market value, within two years prior to a concern's application for participation in the DBE program, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.

(2) Recipients will not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

(3) In determining an individual's access to capital and credit, recipients may consider any assets that the individual transferred within such two-year period described by paragraph (D)(1) of this appendix that are not considered in evaluating the individual's assets and net worth (e.g., transfers to charities).

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35559, June 16, 2003]

Appendix F to Part 26 -- Uniform Certification Application Form

000085

**INSTRUCTIONS FOR COMPLETING THE DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PROGRAM UNIFORM CERTIFICATION APPLICATION**

NOTE: If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

Section 1: CERTIFICATION INFORMATION

A. Prior/Other Certifications

Check the appropriate box indicating for which program your firm is currently certified. If you are already certified as a DBE, indicate in the appropriate box the name of the certifying agency that has previously certified your firm, and also indicate whether your firm has undergone an onsite visit. If your firm has already undergone an onsite visit/review, indicate the most recent date of that review and the state UCP that conducted the review.

NOTE: If your firm is currently certified under the SBA's 8(a) and/or SDB programs, you may not have to complete this application. You should contact your state UCP to find out about a streamlined application process for firms that are already certified under the 8(a) and SDB programs.

B. Prior/Other Applications and Privileges

Indicate whether your firm or any of the persons listed has ever withdrawn an application for a DBE program or an SBA 8(a) or SDB program, or whether any have ever been denied certification, decertified, debarred, suspended, or had bidding privileges denied or restricted by any state or local agency or Federal entity. If your answer is yes, indicate the date of such action, identify the name of the agency, and explain fully the nature of the action in the space provided.

Section 2: GENERAL INFORMATION

A. Contact Information

- (1) State the name and title of the person who will serve as your firm's primary contact under this application.
- (2) State the legal name of your firm, as indicated in your firm's Articles of Incorporation or charter.
- (3) State the primary phone number of your firm.
- (4) State a secondary phone number, if any.
- (5) State your firm's fax number, if any.
- (6) State your firm's or your contact person's email address.
- (7) State your firm's website address, if any.
- (8) State the street address of your firm (i.e., the physical location of its offices -- not a post office box address).
- (9) State the mailing address of your firm, if it is different from your firm's street address.

B. Business Profile

- (1) In the box provided, briefly describe the primary business and professional activities in which your firm engages.
- (2) State the Federal Tax ID number of your firm as provided on your firm's filed tax returns, if you have one. This could also be the Social Security number of the owner of your firm.
- (3) State the date on which your firm was officially established, as stated in your firm's Articles of Incorporation or charter.

- (4) State the date on which you and/or each other owner took ownership of the firm.

- (5) Check the appropriate box that describes the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.

- (6) Check the appropriate box that indicates whether your firm is "for profit."

NOTE: If you checked "No," then you do NOT qualify for the DBE program and therefore do not need to complete the rest of this application. The DBE program requires all participating firms be for-profit enterprises.

- (7) Check the appropriate box that describes the legal form of ownership of your firm, as indicated in your firm's Articles of Incorporation or charter. If you checked "Other," briefly explain in the space provided.

- (8) Check the appropriate box that indicates whether your firm has ever existed under different ownership, a different type of ownership, or a different name. If you checked "Yes," specify which and briefly explain the circumstances in the space provided.

- (9) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time and part-time basis.

- (10) Specify the total gross receipts of your firm for each of the past three years, as declared in your firm's filed tax returns.

C. Relationships with Other Businesses

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, or any office staff with any other business, organization, or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and briefly explain the nature of the shared facilities or other items in the space provided.

- (2) Check the appropriate box that indicates whether at present, or at any time in the past:

- (a) Your firm has been a subsidiary of any other firm;

- (b) Your firm consisted of a partnership in which one or more of the partners are other firms;

- (c) Your firm has owned any percentage of any other firm; and

- (d) Your firm has had any subsidiaries of its own.

- (3) Check the appropriate box that indicates whether any other firm has ever had an ownership interest in your firm.

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- (4) If you answered "Yes" to any of the questions in (2)(a)-(d) or (3), identify the name, address and type of business for each.
- D. Immediate Family Member Businesses**
Check the appropriate box that indicates whether any of your immediate family members own or manage another company. An "immediate family member" is any person who is your father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law. If you answered "Yes," provide the name of each relative, your relationship to them, the name of the company they own or manage, the type of business, and whether they own or manage the company.

Section 3: OWNERSHIP

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each additional owner):

A. Background Information

- (1) Give the name of the owner.
- (2) State his/her title or position within your firm.
- (3) Give his/her home phone number.
- (4) State his/her home (street) address.
- (5) Check the appropriate box that indicates this owner's gender.
- (6) Check the appropriate box that indicates this owner's ethnicity (check all that apply). If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.
- (7) Check the appropriate box to indicate whether this owner is a U.S. citizen.
- (8) If this owner is not a U.S. citizen, check the appropriate box that indicates whether this owner is a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner. This, however, does not necessarily disqualify your firm altogether from the DBE program if another owner is a U.S. citizen or lawfully admitted permanent resident and meets the program's other qualifying requirements.

B. Ownership Interest

- (1) State the number of years during which this owner has been an owner of your firm.
- (2) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment.
- (3) State the percentage of total ownership control of your firm that this owner possesses.
- (4) State the familial relationship of this owner to each other owner of your firm.
- (5) Indicate the number, percentage of the total, class, date acquired, and method by which this owner acquired his/her shares of stock in your firm.

- (6) Check the appropriate box that indicates whether this owner performs a management or supervisory function for any other business. If you checked "Yes," state the name of the other business and this owner's function or title held in that business.
- (7) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business and this owner's function or title held in that business. Briefly describe the nature of the business relationship in the space provided.

C. Disadvantaged Status

NOTE: You only need to complete this section for each owner that is applying for DBE qualification (i.e., for each owner who is claiming to be "socially and economically disadvantaged" and whose ownership interest is to be counted toward the control and 51% ownership requirements of the DBE program)

- (1) Indicate in the space provided the total Personal Net Worth (PNW) of each owner who is applying for DBE qualification. Use the PNW calculator form at the end of this application to compute each owner's PNW.
- (2) Check the appropriate box that indicates whether any trust has ever been created for the benefit of this disadvantaged owner. If you answered "Yes," briefly explain the nature, history, purpose, and current value of the trust(s).

Section 4: CONTROL

A. Identify your firm's Officers and Board of Directors:

- (1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer of your firm.
- (2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.
- (3) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above perform a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. If you answered "Yes," identify the name of the firm, the officer or director, and the nature of his/her business relationship with that other firm.

B. Identify your firm's management personnel (by name, title, ethnicity, and gender) who control your firm in the following areas:

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- (1) Making financial decisions on your firm's behalf, including the acquisition of lines of credit, surety bonds, supplies, etc.;
 - (2) Estimating and bidding, including calculation of cost estimates, bid preparation and submission;
 - (3) Negotiating and contract execution, including participation in any of your firm's negotiations and executing contracts on your firm's behalf;
 - (4) Hiring and/or firing of management personnel, including interviewing and conducting performance evaluations;
 - (5) Field/Production operations supervision, including site supervision, scheduling, project management services, etc.;
 - (6) Office management;
 - (7) Marketing and sales;
 - (8) Purchasing of major equipment;
 - (9) Signing company checks (for any purpose); and
 - (10) Conducting any other financial transactions on your firm's behalf not otherwise listed.
- (11) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (12) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with your firm. If you answered "Yes," identify the name of the firm, the name of the person, and the nature of his/her business relationship with that other firm.
- C. Indicate your firm's inventory in the following categories:**
- (1) **Equipment**
State the type, make and model, and current dollar value of each piece of equipment held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm.
 - (2) **Vehicles**
State the type, make and model, and current dollar value of each motor vehicle held and/or used by your firm. Indicate whether each vehicle is either owned or leased by your firm.
 - (3) **Office Space**
State the street address of each office space held and/or used by your firm. Indicate whether your firm owns or leases the office space and the current dollar value of that property or its lease.
 - (4) **Storage Space**
State the street address of each storage space held and/or used by your firm. Indicate whether your firm owns or leases the storage space and the current dollar value of that property or its lease.
- D. Does your firm rely on any other firm for management functions or employee payroll?**
Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," briefly explain the nature of that reliance and the extent to which the other firm carries out such functions.
- E. Financial Information**
- (1) **Banking Information**
 - (a) State the name of your firm's bank.
 - (b) State the main phone number of your firm's bank branch.
 - (c) State the address of your firm's bank branch.
 - (2) **Bonding Information**
 - (a) State your firm's Binder Number.
 - (b) State the name of your firm's bond agent and/or broker.
 - (c) State your agent's/broker's phone number.
 - (d) State your agent's/broker's address.
 - (e) State your firm's bonding limits (in dollars), specifying both the Aggregate and Project Limits.
- F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms securing the loan, if other than the listed owner:**
State the name and address of each source, the name of the person securing the loan, the original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm.
- G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years:**
Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.
- H. List current licenses/permits held by any owner or employee of your firm.**
List the name of each person in your firm who holds a professional license or permit, the type of license or permit, the expiration date of the permit or license, and the license/permit number and issuing State of the license or permit.
- I. List the three largest contracts completed by your firm in the past three years, if any.**
List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.
- J. List the three largest active jobs on which your firm is currently working.**
For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.
- AFFIDAVIT & SIGNATURE**
Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.

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**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
49 C.F.R. PART 26**

UNIFORM CERTIFICATION APPLICATION

ROADMAP FOR APPLICANTS

- ① **Should I apply?**
 - Is your firm at least 51%-owned by a socially and economically disadvantaged individual(s) who also controls the firm?
 - Is the disadvantaged owner a U.S. citizen or lawfully admitted permanent resident of the U.S.?
 - Is your firm a small business that meets the Small Business Administration's (SBA's) size standard and does not exceed \$17.42 million in gross annual receipts?
 - Is your firm organized as a for-profit business?

⇒ If you answered "Yes" to all of the questions above, you may be eligible to participate in the U.S. DOT DBE program.
- ② **Is there an easier way to apply?**

If you are currently certified by the SBA as an 8(a) and/or SDB firm, you may be eligible for a streamlined certification application process. Under this process, the certifying agency to which you are applying will accept your current SBA application package in lieu of requiring you to fill out and submit this form.

NOTE: You must still meet the requirements for the DBE program, including undergoing an on-site review.
- ③ **Be sure to attach all of the required documents listed in the Documents Check List at the end of this form with your completed application.**
- ④ **Where can I find more information?**
 - U.S. DOT – <http://osdbuweb.dot.gov/business/dbe/index.html> (this site provides useful links to the rules and regulations governing the DBE program, questions and answers, and other pertinent information)
 - SBA – <http://www.sba.gov/naics> (provides a listing of NAICS codes) and <http://www.sba.gov/size/index/tables/size.html> (provides a listing of NAICS codes)
 - 49 CFR Part 26 (the rules and regulations governing the DBE program)

Under Sec. 26.107 of 49 CFR Part 26, dated February 2, 1999, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 29, Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-free Workplace (grants), take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

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Section 1: CERTIFICATION INFORMATION

A. Prior/Other Certifications

Is your firm currently certified for any of the following programs? (If Yes, check appropriate box(es))	<input type="checkbox"/> DBE	Name of certifying agency:
		Has your firm's state UCP conducted an on-site visit?
		<input type="checkbox"/> Yes, on ____ / ____ / ____ State: ____ <input type="checkbox"/> No
	<input type="checkbox"/> 8(a) <input type="checkbox"/> SDB	<input checked="" type="checkbox"/> STOP! If you checked either the 8(a) or SDB box, you <u>may not</u> have to complete this application. Ask your state UCP about the streamlined application process under the SBA-DOT MOU.

B. Prior/Other Applications and Privileges

Has your firm (under any name) or any of its owners, Board of Directors, officers or management personnel, ever withdrawn an application for any of the programs listed above, or ever been denied certification, decertified, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity?

☐ Yes, on ____ / ____ / ____ ☐ No

If Yes, identify State and name of state, local, or Federal agency and explain the nature of the action:

Section 2: GENERAL INFORMATION

A. Contact Information

(1) Contact person and Title:		(2) Legal name of firm:		
(3) Phone #:	(4) Other Phone #:	(5) Fax #:		
(6) E-mail:		(7) Website (if have one):		
(8) Street address of firm (No P.O. Box):	City:	County/Parish:	State:	Zip:
(9) Mailing address of firm (if different):	City:	County/Parish:	State:	Zip:

B. Business Profile

(1) Describe the primary activities of your firm:		(2) Federal Tax ID (if any):
(3) This firm was established on ____ / ____ / ____		(4) I/We have owned this firm since: ____ / ____ / ____
(5) Method of acquisition (check all that apply): <input type="checkbox"/> Started new business <input type="checkbox"/> Bought existing business <input type="checkbox"/> Inherited business <input type="checkbox"/> Secured concession <input type="checkbox"/> Merger or consolidation <input type="checkbox"/> Other (explain)		
(6) Is your firm "for profit"? <input type="checkbox"/> Yes <input type="checkbox"/> No		<input checked="" type="checkbox"/> STOP! If your firm is NOT for-profit, then you do NOT qualify for this program and do NOT need to fill out this application.

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(7) Type of firm (check all that apply):		
<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Limited Liability Corporation <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other, Describe:		
(8) Has your firm ever existed under different ownership, a different type of ownership, or a different name? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain:		
(9) Number of employees: Full-time	Part-time	Total
(10) Specify the gross receipts of the firm for the last 3 years: Year		Total receipts \$
Year		Total receipts \$
Year		Total receipts \$

C. Relationships with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office space, yard, warehouse, facilities, equipment, or office staff, with any other business, organization, or entity? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify: Other Firm's name: _____ Explain nature of shared facilities: _____	
(2) At present, or at any time in the past, has your firm:	(a) been a subsidiary of any other firm? <input type="checkbox"/> Yes <input type="checkbox"/> No
	(b) consisted of a partnership in which one or more of the partners are other firms? <input type="checkbox"/> Yes <input type="checkbox"/> No
	(c) owned any percentage of any other firm? <input type="checkbox"/> Yes <input type="checkbox"/> No
	(d) had any subsidiaries? <input type="checkbox"/> Yes <input type="checkbox"/> No
(3) Has any other firm had an ownership interest in your firm at present or at any time in the past? <input type="checkbox"/> Yes <input type="checkbox"/> No	
(4) If you answered "Yes" to any of the questions in (2)(a)-(d) and/or (3), identify the following for each (attach extra sheets, if needed):	
<u>Name</u>	<u>Address</u> <u>Type of Business</u>
1.	
2.	
3.	

D. Immediate Family Member Businesses

Do any of your immediate family members own or manage another company? <input type="checkbox"/> Yes <input type="checkbox"/> No				
If Yes, then list (attach extra sheets, if needed):				
<u>Name</u>	<u>Relationship</u>	<u>Company</u>	<u>Type of Business</u>	<u>Own or Manage?</u>
1.				
2.				

Section 3: OWNERSHIP

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (If more than one owner, attach separate sheets for each additional owner):

A. Background Information

(1) Name:	(2) Title:	(3) Home Phone #:
(4) Home Address (street and number): City: State: Zip:		
(5) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	(6) Ethnic group membership (Check all that apply):	
(7) U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American	
(8) Lawfully Admitted Permanent Resident:	<input type="checkbox"/> Asian Pacific <input type="checkbox"/> Subcontinent Asian	
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other (specify): _____	

B. Ownership Interest

(1) Number of years as owner:	(2) Initial investment to acquire ownership interest in firm:	Type	Dollar Value
(3) Percentage owned:		Cash	\$
(4) Familial relationship to other owners:		Real Estate	\$
		Equipment	\$
		Other	\$
(5) Shares of Stock: Number Percentage Class Date acquired Method Acquired			
(6) Does this owner perform a management or supervisory function for any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes, identify: Name of Business: Function/Title:			
(7) Does this owner own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes, identify: Name of Business: Function/Title:			
Nature of Business Relationship:			

C. Disadvantaged Status -- NOTE: Complete this section only for each owner applying for DBE qualification (i.e., for each owner claiming to be socially and economically disadvantaged)

(1) What is the Personal Net Worth (PNW) of the owner(s) applying for DBE qualification? (Use and attach the Personal Net Worth calculator form at the end of this application; attach additional sheets if more than one owner is applying)
(2) Has any trust been created for the benefit of this disadvantaged owner(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, explain (attach additional sheets if needed):

Section 4: CONTROL**A. Identify your firm's Officers & Board of Directors (If additional space is required, attach a separate sheet):**

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
	(e)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				
	(e)				

(3) Do any of the persons listed in (1) and/or (2) above perform a management or supervisory function for any other business? ☐ Yes ☐ No

If Yes, identify for each: Person: _____ Title: _____
Business: _____ Function: _____

(4) Do any of the persons listed (1) and/or (2) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? ☐ Yes ☐ No

If Yes, identify for each: Firm Name: _____ Person: _____
Nature of Business Relationship: _____

B. Identify your firm's management personnel who control your firm in the following areas (If more than two persons, attach a separate sheet):

	Name	Title	Ethnicity	Gender
(1) Financial Decisions (responsibility for acquisition of lines of credit, surety bonding, supplies, etc.)	a.			
	b.			
(2) Estimating and bidding	a.			
	b.			
(3) Negotiating and Contract Execution	a.			
	b.			
(4) Hiring/firing of management personnel	a.			
	b.			
(5) Field/Production Operations Supervisor	a.			
	b.			
(6) Office management	a.			
	b.			
(7) Marketing/Sales	a.			
	b.			
(8) Purchasing of major equipment	a.			
	b.			
(9) Authorized to Sign Company Checks (for any purpose)	a.			
	b.			
(10) Authorized to make Financial Transactions	a.			
	b.			

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(11) Do any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business? ☐ Yes ☐ No
 If Yes, identify for each: Person: _____ Title: _____
 Business: _____ Function: _____

(12) Do any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)?
☐ Yes ☐ No

If Yes, identify for each: Firm Name: _____ Person: _____
 Nature of Business Relationship: _____

C. Indicate your firm's inventory in the following categories (attach additional sheets if needed):

(1) Equipment

Type of Equipment	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

(2) Vehicles

Type of Vehicle	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

(3) Office Space

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

(4) Storage Space

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

D. Does your firm rely on any other firm for management functions or employee payroll? ☐ Yes ☐ No

If Yes, explain:

E. Financial Information

(1) Banking Information:

(a) Name of bank: _____ (b) Phone No: () _____
 (c) Address of bank: _____ City: _____ State: _____ Zip: _____

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(2) Bonding Information: If you have bonding capacity, identify: (a) Binder No: _____	
(b) Name of agent/broker: _____	(c) Phone No: () _____
(d) Address of agent/broker: _____	City: _____ State: _____ Zip: _____
(e) Bonding limit: Aggregate limit \$ _____ Project limit \$ _____	

F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of any persons or firms securing the loan, if other than the listed owner:

Name of Source	Address of Source	Name of Person Securing the Loan	Original Amount	Current Balance	Purpose of Loan
1.					
2.					
3.					

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years (attach additional sheets if needed):

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1.					
2.					
3.					

H. List current licenses/permits held by any owner and/or employee of your firm (e.g., contractor, engineer, architect, etc.) (attach additional sheets if needed):

Name of License/Permit Holder	Type of License/Permit	Expiration Date	License Number and State
1.			
2.			
3.			

I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1.			
2.			
3.			

3. List the three largest active jobs on which your firm is currently working:

Name of Prime Contractor and Project Number	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1.					
2.					
3.					

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DBE UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST
 In order to complete your application for DBE certification, you must attach copies of all of the following documents as they apply to you and your firm.

All Applicants

- ☐ Work experience resumes (include places of ownership/employment with corresponding dates), for all owners and officers of your firm
- ☐ Personal Financial Statement (form available with this application)
- ☐ Personal tax returns for the past three years, if applicable, for each owner claiming disadvantaged status
- ☐ Your firm's tax returns (gross receipts) and all related schedules for the past three years
- ☐ Documented proof of contributions used to acquire ownership for each owner (e.g., both sides of cancelled checks)
- ☐ Your firm's signed loan agreements, security agreements, and bonding forms
- ☐ Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- ☐ List of equipment leased and signed lease agreements
- ☐ List of construction equipment and/or vehicles owned and titles/proof of ownership
- ☐ Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past two years
- ☐ Year-end balance sheets and income statements for the past three years (or life of firm, if less than three years); a new business must provide a current balance sheet
- ☐ All relevant licenses, license renewal forms, permits, and haul authority forms
- ☐ DBE and SBA 8(a) or SDB certifications, denials, and/or decertifications, if applicable
- ☐ Bank authorization and signatory cards
- ☐ Schedule of salaries (or other compensation or remuneration) paid to all officers, managers, owners, and/or directors of the firm
- ☐ Trust agreements held by any owner claiming disadvantaged status, if any

Partnership or Joint Venture

- ☐ Original and any amended Partnership or Joint Venture Agreements

Corporation or LLC

- ☐ Official Articles of Incorporation (signed by the state official)
- ☐ Both sides of all corporate stock certificates and your firm's stock transfer ledger
- ☐ Shareholders' Agreement
- ☐ Minutes of all stockholders and board of directors meetings
- ☐ Corporate by-laws and any amendments
- ☐ Corporate bank resolution and bank signature cards
- ☐ Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

Trucking Company

- ☐ Documented proof of ownership of the company
- ☐ Insurance agreements for each truck owned or operated by your firm
- ☐ Title(s) and registration certificate(s) for each truck owned or operated by your firm
- ☐ List of U.S. DOT numbers for each truck owned or operated by your firm

Regular Dealer

- ☐ Proof of warehouse ownership or lease
- ☐ List of product lines carried
- ☐ List of distribution equipment owned and/or leased

NOTE: The specific state UCP to which you are applying may have additional required documents that you must also supply with your application. Contact the appropriate certifying agency to which you are applying to find out if more is required.

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AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name printed), swear or affirm under penalty of law that I am _____ (title) of applicant firm _____ (firm name) and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its place(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract or subcontract, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program (UCP) of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership, address, telephone number, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise (DBE). In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s) (circle all that apply):

Female Black American Hispanic American
Native American Asian-Pacific American
Subcontinent Asian American
Other (specify) _____

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NOTARY CERTIFICATE

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[68 FR 35559, June 16, 2003]



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REPORT

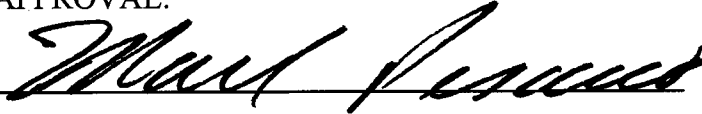
DATE: September 2, 2004

TO: Administration Committee and Regional Council

FROM: Don Rhodes, Manager Government Affairs *DR*

SUBJECT: Approval of California Trucking Association Membership Dues

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION: Approve

BACKGROUND: The California Trucking Association (CTA) is a 70 year-old statewide organization whose mission it is to promote leadership in the California motor carrier industry, advocates sound transportation policies to all levels of government, and works to maintain a safe and efficient California transportation goods movement system. Members of CTA transport 85% of the shipments that travel on California's highways each day. The CTA provides legislative representation, regulatory representation, education, workshops, and leadership development to its members. The trucking industry and goods movement in particular is a critical component of the Regional Transportation Plan (RTP). Participation in this organization allows SCAG to communicate more directly with this group of stakeholders about issues that affect Southern California's transportation system and possible solutions and funding options.

FISCAL IMPACT: There are two funding sources for this payment. The first is 05-810.SCGS90, Government Affairs, SCAG Membership Dues for \$199.98 and 05-800.SCGS2, General Fund, SCAG Membership Dues for \$30.02. See General Funds chart below.

RC Membership Line Item Budget	\$10,000
Plus Transfer from Program Adjustment Line Item (GF)	\$3,500
New Total RC Membership Line Item Budget (GF)	\$13,500
The Coalition for America's Gateway	(\$5,000)
CALCOG General Fund Portion	(\$7,283)
California Trucking Association General Fund Portion	(\$30)
Balance	\$1,187



REPORT

DATE: August 16, 2004

TO: Administration Committee
Regional Council

FROM: Sam Mehta, Contracts Manager (213) 236-1813
Email: mehta@scag.ca.gov

SUBJECT: Contracts and Purchase Orders Between \$5,000 - \$25,000

RECOMMENDED ACTION: Information Only

SUMMARY:

SCAG executed the following contract between \$5,000 and \$25,000

- S.A. Resources, Inc. \$24,000
Temporary Staffing - Finance
Funding Source: Indirect Overhead

The Executive Director executed the following Purchase Orders between \$5,000 and \$25,000

- Office Team \$24,000
Temp Staffing – Executive Assistant
Funding Source: FHWA
- Dell Marketing \$11,548
Purchase PCs for the City of LA Project
Funding Source: City of Los Angeles
- M.E. Consulting Services \$ 5,000
AIX Modeling Support
Funding Source: Indirect Overhead
- SAP America, Inc. \$ 5,250
SAP Training
Funding Source: Indirect Overhead
- Environment Systems Research Inst. \$22,248
Annual Renewal of ESRI Software
Funding Source: Indirect Overhead
- California Integrated Solutions, Inc. \$ 7,109
Laptop Computers for the City of LA project
Funding Source: City of Los Angeles
- General Networks Corporation \$ 5,000
Software Support
Funding Source: Indirect Overhead

REPORT

- IBM Corporation \$13,639
Hardware Support for IBM Computers
Funding Source: Indirect Overhead
- Avaya, Inc. \$10,089
Phone System Maintenance
Funding Source: Indirect Overhead
- Xerox Corporation \$15,000
Photocopier Supplies
Funding Source: Indirect Overhead
- AT&T Wireless Services \$ 5,000
Cellular Phone Usage
Funding Source: Indirect Overhead
- Stivers Staffing Services, Inc. \$18,000
Temporary Employment Services
Funding Source: Indirect Overhead

BACKGROUND:

Pursuant to the recommendations from the Best Practices Contracts Committee and KMPG, the Regional Council approved the execution by the Executive Director, Purchase Orders between \$5,000 and \$25,000 and the listing of all such Contracts and purchase orders on the agenda as information only.

REPORT

DATE: August 16, 2004

TO: Administration Committee
Regional Council

FROM: Sam Mehta, Manager; Contracts (213) 236-1813
Email: Mehta@scag.ca.gov

SUBJECT: Conflict of Interest Listing

RECOMMENDED ACTION: Information Only

Listing of all agenda items involving consultants, vendors, or other groups to all members to determine whether they have conflicts

Item

3.1.2

- Managing Excellence Consulting Services (MECS)
 - University of Southern California
 - Kaku Associates
- Sub: - Nelson/Nygaard

3.2.1

- S.A. Resources, Inc.
- Office Team
- Dell Marketing
- Managing Excellence Consulting Services (MECS)
- SAP America, Inc.
- Environmental Systems Research Inst.
- California Integrated Solutions, Inc.
- General Networks Corporation
- IBM Corporation
- Avaya, Inc.
- Xerox Corporation
- AT&T Wireless Services
- Stivers Staffing Services, Inc.



MEMO

DATE: September 2, 2004
TO: Regional Council
FROM: Charlotte Pienkos, Government Affairs Analyst
Phone: (213) 236-1811 E-Mail: eckelbec@scag.ca.gov
SUBJECT: State Legislative Matrix

SUMMARY:

Attached to this memorandum are the bills and constitutional amendments of interest to the Regional Council, as well as the list of Top Five bills currently being followed by Government Affairs.

With the passage of a state budget, committees have again taken up work on legislation and the legislative session is quickly reaching its end. As of this writing on August 12th, fiscal committees have one more day to hear bills. As of the 16th, bills may only be heard on the floor through the 31st, which is the last day for each house to pass bills. Recess begins upon adjournment. From August 31st through September 30th, the Governor may sign or veto bills passed and in his possession by September 1st. Consequently, we will know at the September 2nd meeting of the Regional Council which bills passed, although we will not know what bills may yet be vetoed.

CAP#98918



**SOUTHERN CALIFORNIA
ASSOCIATION of GOVERNMENTS**

000104

Bill, Author and Staff Contact	Description	Relevance to SCAG Region	Positions	Status and Hearing Date
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Housing

AB 2158 (Lowenthal) Staff: Mark Stivers (916) 445-8740	RHNA reform bill. Revises procedures for determining shares of the existing and projected regional housing need.	SCAG is statutorily required to produce the RHNA for the SCAG region.	SCAG-Support; CSAC and CALCOG-- Support.	Senate Second Reading File 42.
AB 2348 (Mullin) Staff: Mark Stivers (916) 445-8740	RHNA reform bill. Revises criteria for inventory of sites that can be developed to accommodate share of regional housing need.	SCAG is statutorily required to produce the RHNA for the SCAG region.	RC-Support; CSAC- Pending.	Senate Second Reading File 51.

Energy and Environment

AB 2042 (Lowenthal) Staff: Josh Tooker (916) 319-2054	Requires SCAQMD to set baseline for emissions at Ports of Long Beach and Los Angeles. Requires SCAQMD and the ports to enter an MOU to implement emission controls.	Ports of Long Beach and Los Angeles located in SCAG region; goods movement central to regional economy; air quality affected.	EEC Info Item 6/3/04. City of Long Beach- Support. Ports - Oppose.	Senate Second Reading File 116.
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Transportation

AB 3048 (Oropeza) Staff: Andrew Antwih (916) 319-2093	States the intent of the Legislature to explore the use of alternative financing methods for transportation projects.	Intended as future bill for the RIGHT bill.	RIGHT was opposed by MTA in July.	Assembly Unfinished Business-- Concurrence in Senate amendments.
SB 1210 (Torlakson) Staff: Robert Oakes (916) 445-6083	Authorizes Caltrans to conduct a pilot project to let design-sequencing contracts for the design and construction of not more than 12 transportation projects to be selected by Director of Caltrans.	Design-sequencing a priority of CFEE and necessary for faster and improved project delivery.	OCTA-Support; Metrolink-Seek Amendment for rail projects.	Assembly Third Reading, File 269.
SB 1793 (McPherson) Staff: Mari Lane (916) 445-5843	Expresses intent of Legislature to explore the use of alternative methods of financing and delivering transportation projects, including design build, design sequencing, and various forms of private financing, including tolls.	Design-sequencing a priority of CFEE and necessary for faster and improved project delivery.		Assembly Third Reading, File 270.

Private file: AirQuality

CA AB 1971 **AUTHOR:** Lowenthal (D)
TITLE: Air Pollution: Marine Terminals
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/12/2004
LAST AMEND: 07/12/2004
FILE: 185
LOCATION: Senate Third Reading File
SUMMARY:
Relates to requirements that each marine terminal in the state operate in a manner that does not cause the engines on trucks to idle or queue for more than 30 minutes while waiting to load or unload at the terminal. Makes several clarifying changes to those provisions regarding the application of the above requirements with respect to both idling and queuing. Requires air control districts to make a determination with regard to queuing trucks.
STATUS:
08/09/2004 In SENATE. Read second time. To third reading.
NOTES: Lowenthal Staff: Josh Tooker (916) 319-2054
COMMENTARY:
In 2003, SCAG supported the original Lowenthal bill that created the idling and queuing prohibition, AB 2650.
Position: SCAG-Sup 04/07/2004

CA AB 2042 **AUTHOR:** Lowenthal (D)
TITLE: Ports: Port of Los Angeles: Port of Long Beach
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/17/2004
LAST AMEND: 07/12/2004
COMMITTEE: Senate Appropriations Committee
HEARING: 08/12/2004 8:30 am
SUMMARY:
Requires the South Coast Air Quality District to establish a baseline for air quality for the Ports of Los Angeles and Long Beach. Provides the baselines would be based on data regarding emissions from oceangoing vessels, harbor craft, cargo handling equipment, rail locomotives and commercial motor vehicles. Requires the district, the two ports and the Air Resources Board to develop and enter into a memorandum of understanding to implement emission control measures at those ports.
STATUS:
08/04/2004 In SENATE Committee on APPROPRIATIONS: To Suspense File.
NOTES: Lowenthal Staff: Josh Tooker (916) 319-2054
COMMENTARY:
Considered by the EEC 5/6/04 and 6/3/04. Amendment submitted to Assembly Member Lowenthal adding SCAG to the groups consulted in the MOA and including user-supported, dedicated infrastructure among possible emission control measures.

CA AB 2628 **AUTHOR:** Pavley (D)
TITLE: Vehicles: Preferential Lanes
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/20/2004
LAST AMEND: 07/15/2004
COMMITTEE: Senate Appropriations Committee
HEARING: 08/12/2004 8:30 am
SUMMARY:
Includes a 2004 model year ultra-low emission vehicle and a hybrid vehicle that meets the State's advanced technology partial zero-emission vehicle standard for criteria pollutant emissions and has a 45 miles per gallon or greater fuel economy highway rating and a hybrid vehicle that was produced during the 2004 model year or earlier and has a 45 miles per gallon or greater fuel highway rating and ultra- and super ultra-low emission vehicles to list of vehicle using HOV lanes.
STATUS:
08/04/2004 In SENATE Committee on APPROPRIATIONS: To Suspense File.
Position: CALCOG-Opp, SCAG-Opp 06/03/2004

000106

CA SB 1397

AUTHOR: Escutia (D)
TITLE: Air Pollution: South Coast Air Quality Management
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/18/2004
LAST AMEND: 07/27/2004
COMMITTEE: Assembly Appropriations Committee
HEARING: 08/12/2004 8:30 am
SUMMARY:

Authorizes the South Coast Air Quality Management District to adopt regulations requiring the owner or lessee of a heavy-duty motor vehicle, or non-road engine or vehicle to install retrofit controls to reduce air emissions if that vehicle or engine operates substantially in a rail yard of the district and is part of a fleet of 15 or more vehicles or engines. Requires the district to establish fair share emission reduction targets for locomotives and conduct public workshops.

STATUS:

08/04/2004 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

NOTES: Escutia Staff: William Sanchez (916) 445-3090

COMMENTARY:

SB 1397 relates to air pollution and goods movement in the SCAB and SCAG regions. SCAG has statutory obligations in area of air quality in the AQMP. SB 1397 is similar to AB 1058 (Pavley), which died on concurrence in 2002 and would have taken similar steps in mobile source emissions from automobiles. SCAG did not take a position on AB 1058. Related SCAG policy can be found in the 2004 Legislative Program and in the 2004 RTP EIR/EIS.

Private file: EconomicDevelopment

CA AB 1855

AUTHOR: Maze (R)
TITLE: Infrastructure and Economic Development Bank
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 01/29/2004
ENACTED: 07/23/2004
LOCATION: Chaptered
CHAPTER: 189
SUMMARY:

Relates to the Bergeson-Peace Infrastructure and Economic Development Bank Act that requires the California Infrastructure and Economic Development Bank to establish criteria, priorities and guidelines for the selection of projects to receive assistance from the bank. Requires the bank to notify the Governor and the legislative fiscal and policy committees when it establishes or makes changes to the criteria, priorities and guidelines.

STATUS:

07/23/2004 Signed by GOVERNOR.

07/23/2004 Chaptered by Secretary of State. Chapter No. 189

Private file: Energy

CA AB 2006

AUTHOR: Nunez (D)
TITLE: Reliable Electric Service Act of 2004
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/13/2004
LAST AMEND: 08/09/2004
LOCATION: Senate Energy, Utilities and Communications Committee
SUMMARY:

Requires costs incurred by an electrical corporation to implement transactions on behalf of direct-access customers to be recovered from those customers. Requires such corporations to file, at least every 3 years, a long-term integrated resource plan. Provides for the recovery initial capital investments by such corporations. Requires the Public Utilities Commission to submit a report on streamlining the transmission siting process and each corporation's infrastructure.

STATUS:

08/11/2004 In SENATE Committee on ENERGY, UTILITIES AND COMMUNICATIONS:
Not heard.

Private file: Environment

000107

CA AB 2055 **AUTHOR:** Wolk (D)
 TITLE: General Plan Elements
 FISCAL COMMITTEE: no
 URGENCY CLAUSE: no
 INTRODUCED: 02/17/2004
 LAST AMEND: 07/14/2004
 FILE: 138
 LOCATION: Senate Third Reading File
 SUMMARY:
 Provides the conservation element may include the conservation of agricultural lands. Provides the open space element, which would be renamed as a agricultural and open space element, is the component of a county or city general plan adopted by the legislative body. Provides subjects that may be included in the agricultural and open-space element.
 STATUS:
 07/15/2004 In SENATE. Read second time. To third reading.

CA AB 2251 **AUTHOR:** Lowenthal (D)
 TITLE: California Environmental Quality Act
 FISCAL COMMITTEE: no
 URGENCY CLAUSE: no
 INTRODUCED: 02/19/2004
 LAST AMEND: 06/30/2004
 FILE: A-41
 LOCATION: Senate Inactive File
 SUMMARY:
 Prohibits the use of a master environmental impact report if the filing of an application for the subsequent project occurs following the certification of the master environmental impact report and the approval of a project that was not described in the master environmental impact report may affect the adequacy of the environmental review in the master environmental impact report for any subsequent project to review a subsequent project that was described in the impact report.
 STATUS:
 07/01/2004 In SENATE. To Inactive File.

Private file: Housing

CA AB 2158 **AUTHOR:** Lowenthal (D)
 TITLE: Housing Elements: Regional Housing Need
 FISCAL COMMITTEE: yes
 URGENCY CLAUSE: no
 INTRODUCED: 02/18/2004
 LAST AMEND: 06/24/2004
 COMMITTEE: Senate Appropriations Committee
 HEARING: 08/12/2004 8:30 am
 SUMMARY:
 Relates to city, county or city and county general plan housing element. Revises the procedures for determining shares of the existing and projected regional housing need for cities, counties and subregions at all income levels.
 STATUS:
 07/12/2004 In SENATE Committee on APPROPRIATIONS: To Suspense File.
 COMMENTARY:
 SCAG staff participates on the Lowenthal Working Group that crafted this bill.
 Position: CSAC-Sup, SCAG-Sup 06/03/2004

CA AB 2348 **AUTHOR:** Mullin (D)
 TITLE: Housing Element: Regional Housing Need
 FISCAL COMMITTEE: yes
 URGENCY CLAUSE: no
 INTRODUCED: 02/19/2004
 LAST AMEND: 06/24/2004
 COMMITTEE: Senate Appropriations Committee
 HEARING: 08/12/2004 8:30 am
 SUMMARY:
 Revises the criteria for the inventory of sites that can be developed for housing within the

000108

planning board to accommodate that portion of a city's or county's share of regional housing need for all income levels. Expands the relocation assistance available to persons displaced by sites identified for substantial rehabilitation. Revises the requirements that may be imposed on a development project that contributes to the housing need.

STATUS:

07/12/2004

In SENATE Committee on APPROPRIATIONS: To Suspense File.

COMMENTARY:

SCAG Staff participates in the Lowenthal Working Group that drafted AB 2348.

Position:

CSAC-Pending, SCAG-Sup 06/03/2004

CA AB 2702

AUTHOR:

Steinberg (D)

TITLE:

Housing: Second Units

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/20/2004

LAST AMEND:

05/25/2004

COMMITTEE:

Senate Appropriations Committee

HEARING:

08/12/2004 8:30 am

SUMMARY:

Provides that a local agency may not preclude or effectively preclude 2nd units unless the local agency makes findings based on substantial evidence. Prohibits certain related ordinances. Prohibits a local agency from establishing minimum unit size requirements for attached or detached 2nd units below 550 livable square feet unless requested by the owner. Revises the parking requirements for 2nd units. Relates to incentives for housing developers.

STATUS:

08/04/2004

In SENATE Committee on APPROPRIATIONS: To Suspense File.

Position:

CSAC-Opp, SCAG-Opp 06/03/2004

CA SB 744

AUTHOR:

Dunn (D)

TITLE:

Planning: Housing

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/21/2003

LAST AMEND:

05/25/2004

LOCATION:

Assembly Local Government Committee

SUMMARY:

Establishes within the Department of Housing and Community Development a Housing Accountability Committee consisting of 5 appointed members to hear appeals of city, county or city and county decisions on applications for the construction of housing developments that meet specified affordability requirements.

STATUS:

06/09/2004

In ASSEMBLY Committee on LOCAL GOVERNMENT: Not heard.

Position:

CSAC-Opp, League-Opp, SCAG-Opp 06/03/2004

CA SB 898

AUTHOR:

Burton (D)

TITLE:

Schoolsite Replacement Housing

FISCAL COMMITTEE:

no

URGENCY CLAUSE:

no

INTRODUCED:

02/21/2003

LAST AMEND:

06/30/2004

FILE:

293

LOCATION:

Assembly Third Reading File

SUMMARY:

Authorizes a school district, community college district, or an eligible nonprofit corporation to acquire real property for to replace dwelling units displaced by a new schoolsite under the same conditions and requirements as a local governing agency. Requires that the acquisition be from a willing seller.

STATUS:

07/01/2004

In ASSEMBLY. Read second time. To third reading.

Position:

League-Opp

CA SB 1145

AUTHOR:

Burton (D)

TITLE:

Tenancy

FISCAL COMMITTEE:

no

URGENCY CLAUSE:

no

000109

INTRODUCED: 01/22/2004
LAST AMEND: 06/08/2004
FILE: 44
LOCATION: Senate Unfinished Business
SUMMARY:

Extends indefinitely existing law which requires that if a landlord increases the rent of a month-to-month tenancy in excess of 10% of the amount of the rent charged to a tenant annually, the landlord shall provide an additional 30-days' notice prior to the effective date of the increase. Modifies the list of statements a landlord must provide a tenant to delete a required statement regarding a claim of security.

STATUS:
 06/24/2004 In ASSEMBLY. Read third time. Passed ASSEMBLY. *****To SENATE for concurrence.

CA SB 1592

AUTHOR: Torlakson (D)
TITLE: Local Planning
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/20/2004
LAST AMEND: 06/09/2004
LOCATION: Assembly Local Government Committee
SUMMARY:

Requires each city and each county to adopt or amend an infill ordinance or a specific plan for infill development that identifies potential infill sites and specifies appropriate zoning to encourage infill development on vacant and underutilized parcels. Requires the infill ordinance or specific plan to provide at least 5 incentives for infill housing from a specified list of 10 incentives. Requires each city and county to comply within a certain time period.

STATUS:
 06/16/2004 In ASSEMBLY Committee on LOCAL GOVERNMENT: Not heard.
Position: CSAC-Pending

CA SB 1818

AUTHOR: Hollingsworth (R)
TITLE: Density Bonuses
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/20/2004
LAST AMEND: 07/28/2004
LOCATION: Assembly Second Reading File
SUMMARY:

Relates to the Planning and Zoning Law which requires, when a housing developer proposes a development, that the city or county provide the developer with a density bonus or other incentives for the production of lower income housing units if the developer meets certain requirements. Requires that the local government provide a density bonus, incentives or concessions for the production of housing or child care facilities.

STATUS:
 08/11/2004 From ASSEMBLY Committee on APPROPRIATIONS: Do pass as amended.

Private file: LocalFinance

CA SB 1212

AUTHOR: Ducheny (D)
TITLE: Local Government Finance
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/11/2004
LAST AMEND: 06/28/2004
COMMITTEE: Assembly Appropriations Committee
HEARING: 08/12/2004 8:30 am
SUMMARY:

Provides that beginning with the 2005-06 fiscal year, an indefinite offset of the vehicle license fee by 67.5% and eliminates reimbursement payments to counties and cities that are required under the Vehicle License Fee Law. Requires each county and city annually receive, beginning with the 2005-06 fiscal year, a defined base amount. Reduces these payments if the vehicle license fee is increased.

STATUS:

000110

08/04/2004

NOTES:

In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

Moreno Ducheny Staff: Mark Stivers (916) 445-8740

COMMENTARY:

The 2004 Legislative Program calls for SCAG to monitor local finance legislation via groups like the League of California Cities to preserve SCAG resources. SB 1212 attempts to minimize the fiscalization of land use, a traditional SCAG issue. SCAG opposed AB 1221 (Steinberg) in 2003 that would have effected a tax swap to stabilize the tax base.

CA SCA 9

AUTHOR:

Brulte (R)

TITLE:

Transportation

FISCAL COMMITTEE:

no

URGENCY CLAUSE:

no

INTRODUCED:

02/20/2003

LAST AMEND:

07/29/2004

LOCATION:

Senate Rules Committee

SUMMARY:

Proposes an amendment to the Constitution to make nonsubstantive changes related to authorizing funds in the Public Transportation Account in the State Transportation Fund to be loaned to the General Fund under specified conditions.

STATUS:

08/09/2004

Re-referred to SENATE Committee on RULES.

Private file: SCAG

CA AB 2207

AUTHOR:

Levine (D)

TITLE:

Statistical Districts: San Fernando Valley

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/18/2004

ENACTED:

07/19/2004

LOCATION:

Chaptered

CHAPTER:

181

SUMMARY:

Requires any state agency or department that develops and maintains data and statistics on the municipal level, to make a separate breakdown of the San Fernando Valley, in the preparation and maintenance of any statistical analyses by city. Authorizes state agencies to require the City of Los Angeles to provide all necessary data. Provides for an alternative method be used to determine the separate breakdown if a tax area code is used in the analysis.

STATUS:

07/20/2004

Chaptered by Secretary of State. Chapter No. 181

COMMENTARY:

The statistical data that will be provided as the result of enactment of AB 2207 will assist SCAG's planning efforts.

Position:

SCAG-Sup 04/02/2004

Private file: SolidWaste

CA AB 1873

AUTHOR:

Hancock (D)

TITLE:

Solid Waste: Recycling Market Development

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/03/2004

LAST AMEND:

05/20/2004

COMMITTEE:

Senate Appropriations Committee

HEARING:

08/12/2004 8:30 am

SUMMARY:

Extends the operation and repeal of the Recycling Market Development Revolving Loan Program, including the extension of the operation and repeal of the continuously appropriated subaccount thereby continuing the effect of the program indefinitely.

STATUS:

06/28/2004

In SENATE Committee on APPROPRIATIONS: To Suspense File.

Position:

CSAC-Watch

CA SB 537

AUTHOR:

Romero (D)

TITLE:

Solid Waste: Los Angeles County Sanitation

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FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/20/2003
LAST AMEND: 06/09/2004
LOCATION: Assembly Local Government Committee
SUMMARY:

Prohibits the siting of a new materials recovery facility designed to receive greater than 4,000 tons per day within Los Angeles County prior to 2015. Requires the board of directors of each sanitation district in the county to adopt a final annual budget within prescribed categories. Requires the board to deposit at least a certain amount of money annually into the district's Air Pollution Mitigation Fund for projects upon agreement with the South Coast Air Quality Control Board.

STATUS:

06/23/2004 In ASSEMBLY Committee on LOCAL GOVERNMENT: Heard, remains in Committee.

Position: CSAC-Watch, League-Opp

Private file: Transportation

CA AB 1663

AUTHOR: Dutra (D)
TITLE: Vehicle Additional Registration Fees
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/21/2003
LAST AMEND: 07/01/2004
FILE: 137
LOCATION: Assembly Unfinished Business - Concurrence in Senate Amendments
SUMMARY:

Relates to the additional fees charged on all commercial motor vehicles for vehicle registration used for vehicle theft crime programs, to extend the repeal date for such fees. Requires each participating county to issue a fiscal year-end report to the Controller, summarizing certain matters. Provides if a county fails to submit the report, the authority to collect the fee would be suspended. Requires the review of such reports to determine if the fee revenues are being utilized as required.

STATUS:

08/09/2004 In SENATE. Read third time. Passed SENATE. *****To ASSEMBLY for concurrence.

Position: League-Sup

CA AB 2024

AUTHOR: Bermudez (D)
TITLE: Ports: Transportation Network
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/13/2004
LAST AMEND: 07/28/2004
FILE: 187
LOCATION: Senate Third Reading File
SUMMARY:

Requires the ports of Los Angeles and Long Beach to evaluate changes in goods movement network to gauge adherence by these ports to certain state goals relative to utilization of and congestion at ports and to collect statistics regarding compliance with federal, state and local efforts to achieve certain related objectives and to report to the Business, Transportation and Housing Agency, the Office of Goods Movement and the legislative committees on transportation.

STATUS:

08/09/2004 In SENATE. Read second time. To third reading.

NOTES: Bermudez Staff: Paul Gonsalves (916) 319-2056

COMMENTARY:

Similar to AB 2041 (Lowenthal).

CA AB 2032

AUTHOR: Dutra (D)
TITLE: HOT Lanes: Demonstration Projects
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/13/2004
LAST AMEND: 07/27/2004

000112

FILE: 163
LOCATION: Senate Third Reading File

SUMMARY:

Authorizes the San Diego Association of Governments, the Sunol Smart Carpool Lane Joint Powers Authority, the Santa Clara Valley Transportation Authority and the Alameda County Congestion Management Agency to undertake value pricing programs involving various HOT lanes under the jurisdiction of these sponsoring agencies. Requires a portion of the funding from tolls to be used for construction of high occupancy vehicle facilities and the improvement of transit services.

STATUS:

08/09/2004

In SENATE. Read second time. To third reading.

Position:

CALCOG-Sup

CA AB 2041

AUTHOR: Lowenthal (D)
TITLE: Ports: Congestion
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/17/2004
LAST AMEND: 05/06/2004
COMMITTEE: Senate Appropriations Committee
HEARING: 08/12/2004 8:30 am
SUMMARY:

Establishes the Port Congestion Management District governed by a board consisting of members appointed by, and serving indefinite terms at the pleasure of, the Secretary of Business, Transportation and Housing. Requires the board to establish a charge for the privilege of transporting cargo by commercial motor vehicle into or out of the Port of Los Angeles or the Port of Long Beach. Establishes a Port Congestion Management Fund. Requires certain reports from such ports.

STATUS:

08/04/2004

In SENATE Committee on APPROPRIATIONS: To Suspense File.

NOTES:

Lowenthal Staff: Josh Tooker (916) 319-2054

COMMENTARY:

Similar to AB 2024 (Bermudez).

CA AB 2043

AUTHOR: Lowenthal (D)
TITLE: Maritime Port Strategic Master Plan Task Force
FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 02/17/2004
LAST AMEND: 07/07/2004
FILE: 192
LOCATION: Assembly Unfinished Business - Concurrence in Senate Amendments
SUMMARY:

Requires the California Marine and Intermodal Transportation System Advisory Council to meet on an unspecified basis, hold public hearings, and compile data on certain issues relating to the growth and congestion of maritime ports. Requires the council to compile specified information and submit its findings to the Legislature on methods to better manage that growth and the environmental impact of moving goods through ports.

STATUS:

08/10/2004

In SENATE. Read third time. Passed SENATE. *****To ASSEMBLY for concurrence.

NOTES:

Lowenthal Staff: Josh Tooker (916) 319-2054

CA AB 2628

AUTHOR: Pavley (D)
TITLE: Vehicles: Preferential Lanes
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/20/2004
LAST AMEND: 07/15/2004
COMMITTEE: Senate Appropriations Committee
HEARING: 08/12/2004 8:30 am
SUMMARY:

Includes a 2004 model year ultra-low emission vehicle and a hybrid vehicle that meets the State's advanced technology partial zero-emission vehicle standard for criteria pollutant emissions and has a 45 miles per gallon or greater fuel economy highway rating and a hybrid

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vehicle that was produced during the 2004 model year or earlier and has a 45 miles per gallon or greater fuel highway rating and ultra- and super ultra-low emission vehicles to list of vehicle using HOV lanes.

STATUS:

08/04/2004

In SENATE Committee on APPROPRIATIONS: To Suspense File.

Position:

CALCOG-Opp

CA AB 2880

AUTHOR:

Pavley (D)

TITLE:

Vehicles: Registration: Fees: Increase

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/20/2004

LAST AMEND:

07/15/2004

COMMITTEE:

Senate Appropriations Committee

HEARING:

08/12/2004 8:30 am

SUMMARY:

Increases the motor vehicle registration surcharge that offsets the costs of the Carl Moyer Memorial Air Quality Standards Attainment Program for projects to reduce oxides of nitrogen from heavy-duty mobile sources and the Voluntary Accelerated Light-Duty Vehicle Retirement Program that provide incentives for the retirement of passenger motor vehicles. Requires the Sacramento Metropolitan Air Quality Management District to use the funds for air quality improvements. Relates to school buses.

STATUS:

08/04/2004

In SENATE Committee on APPROPRIATIONS: To Suspense File.

CA AB 3047

AUTHOR:

Assembly Transportation Committee

TITLE:

Transportation

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

03/01/2004

LAST AMEND:

07/15/2004

COMMITTEE:

Senate Appropriations Committee

HEARING:

08/12/2004 8:30 am

SUMMARY:

Authorizes the Transportation Commission to relinquish portions of certain highways to specified local agencies. Revises projects supported by the toll surcharge on bay area toll bridges. Relates to the statement on a smog certificate upon the transfer of a motor vehicle. Relates to provisions governing the traffic violation point system. Relates to the provisions governing the fee for abatement of abandoned vehicles. Relates to placards and plates for disabled persons.

STATUS:

08/04/2004

In SENATE Committee on APPROPRIATIONS: To Suspense File.

CA AB 3048

AUTHOR:

Oropeza (D)

TITLE:

Transportation Financing: Alternate Methods

FISCAL COMMITTEE:

no

URGENCY CLAUSE:

no

INTRODUCED:

03/01/2004

LAST AMEND:

06/22/2004

FILE:

71

LOCATION:

Assembly Unfinished Business - Concurrence in Senate Amendments

SUMMARY:

States the intent of the Legislature to explore the use of alternative financing methods for transportation projects.

STATUS:

07/12/2004

In SENATE. Read third time. Passed SENATE. *****To ASSEMBLY for concurrence.

CA SB 924

AUTHOR:

Karnette (D)

TITLE:

Global Gateways Development Council

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/21/2003

LAST AMEND:

06/24/2004

COMMITTEE:

Assembly Appropriations Committee

HEARING:

08/12/2004 8:30 am

000114

SUMMARY:

Establishes the Global Gateways Development Council in Business, Transportation and Housing Agency, to review and collect data and information concerning the needs of commercial transportation and to advise the Legislature, the agency, the Transportation Commission, and regional transportation planning agencies in that regard. Requires the council to report annually to the Governor on the condition of the State's goods movement transportation system.

STATUS:

08/04/2004

In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

CA SB 1087

AUTHOR:

Soto (D)

TITLE:

Highways: Safe Routes To School Construction

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

01/05/2004

LAST AMEND:

06/24/2004

COMMITTEE:

Assembly Appropriations Committee

HEARING:

08/12/2004 8:30 am

SUMMARY:

Extends the repeal date of projects for the improvement of highway safety and the reduction of traffic congestion. Extends the operation of the Safe Routes to School construction program.

STATUS:

08/04/2004

In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

Position:

CSAC-Watch

CA SB 1210

AUTHOR:

Torlakson (D)

TITLE:

Transportation Financing: Alternate Methods

FISCAL COMMITTEE:

no

URGENCY CLAUSE:

no

INTRODUCED:

02/10/2004

LAST AMEND:

06/23/2004

FILE:

288

LOCATION:

Assembly Third Reading File

SUMMARY:

Authorizes the Department of Transportation to conduct a pilot project to let design-sequencing contracts for the design and construction of not more than 12 transportation projects, to be selected by the Director of Transportation.

STATUS:

06/29/2004

In ASSEMBLY. Read second time. To third reading.

CA SB 1759

AUTHOR:

Denham (R)

TITLE:

Transportation: Finance

FISCAL COMMITTEE:

yes

URGENCY CLAUSE:

no

INTRODUCED:

02/20/2004

LAST AMEND:

04/01/2004

LOCATION:

Senate Transportation Committee

SUMMARY:

Deletes the requirement that money deposited in the State Highway Account in the State Transportation Fund that is not subject to constitutional requirements to be used for any transportation purpose be transferred to the Public Transportation Account in the State Transportation Fund. Includes money derived from the sale of buildings and other real property within the description of items not subject to constitutional requirements.

STATUS:

04/27/2004

In SENATE Committee on TRANSPORTATION: Failed passage.

04/27/2004

In SENATE Committee on TRANSPORTATION: Reconsideration granted.

Position:

CALCOG-Sup

CA SB 1793

AUTHOR:

McPherson (R)

TITLE:

Public Contracts: Design-Build Contracting

FISCAL COMMITTEE:

no

URGENCY CLAUSE:

no

INTRODUCED:

02/20/2004

LAST AMEND:

06/23/2004

FILE:

289

LOCATION:

Assembly Third Reading File

000115

SUMMARY:

Expresses the intent of the Legislature to explore the use of alternative methods of financing and delivering transportation projects in the state, including design build, design sequencing and various forms of private financing, including tolls.

STATUS:

06/29/2004

In ASSEMBLY. Read second time. To third reading.

CA SCA 11

AUTHOR:

Alarcon (D)

TITLE:

Local Government: Transactions and Use Taxes

FISCAL COMMITTEE:

no

URGENCY CLAUSE:

no

INTRODUCED:

02/26/2003

LAST AMEND:

03/23/2004

FILE:

A-14

LOCATION:

Senate Inactive File

SUMMARY:

Authorizes a local government authorized to incur indebtedness for infrastructure projects to incur, with the approval of 55% of its voters, indebtedness in the form of general obligation bonds to fund infrastructure projects, including construction of affordable housing for persons of very low, low, and moderate income, transportation enhancement activities, acquisitions of land for open-space use, and other infrastructure projects.

STATUS:

08/09/2004

In SENATE. From third reading. To Inactive File.

Position:

CSAC-Pending, League-Sup

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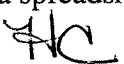
MEMO

DATE: August 12, 2004
TO: Administration Committee and Regional Council
FROM: John Downs, Staff Accountant
(213) 236-1970, downs@scag.ca.gov
SUBJECT: Use of On Line Banking

Purpose: Benefits of converting from SCAG's current system of electronic banking to On-line banking.

Background: SCAG currently uses electronic banking software that is expensive and will be discontinued by Bank of the West (BOW).

BOW has a new on line banking system that will improve the efficiency and effectiveness of SCAG cash management. On line banking will allow SCAG management, as administrators, to make fund transfers and stop payments on line and permit SCAG accounting staff, as operators, instant access on a "Read Only" basis to daily banking transactions, (i.e. deposits, wire transfers, electronic funds transaction and traditional deposits) transacted by SCAG staff.

Fiscal Impact: On line (Web Based) banking will provide three major benefits. First, by switching from our current system to a Web based system, SCAG will save approximately \$413.00 monthly in BOW fees. Second, SCAG will save \$10.00 per stop payment transactions and third, by having on line access, SCAG will be able to have instant access to banking transaction, automatically store all banking activity electronically, via spreadsheets and or in a data base, allowing staff savings through greater utilization of information. 

PC Docs 101135



SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

SanLine versus WebDirect Fees

June, 2004 Volumes

SERVICE DETAIL	VOLUME	UNIT FEE	MONTHLY FEE	UNIT FEE	MONTHLY FEE
SanLine PC - Information Reporting (Current Service)					
<i>Previous Day Balance/Detail Reporting</i>					
Monthly Maintenance, First Account	1	70.00	70.00		
Monthly Maintenance, Additional Accounts (2-10)	2	20.00	40.00		
Balance Reporting, Per Item	327	0.17	55.59		
Detail Reporting, Per Item	314	0.17	53.38		
<i>Current Day Reporting</i>					
Monthly Maintenance, First Account	1	30.00	30.00		
<i>Money Transfer Module</i>					
Monthly Maintenance	1	25.00	25.00		
<i>Special Reports</i>					
Monthly Maintenance	1	15.00	15.00		
<i>San Line PC-ACH</i>					
Monthly Maintenance	1	50.00	50.00		
Lox Box Service					
Monthly Base Fee	1	155.00	155.00		
PO Rental	1	68.67	68.67		
Interbranch Fee	1	20.00	20.00		
Monthly Transaction Fee (Avg)	1	10.00	10.00		
Total SanLine Service			592.64		
WebDirect (Proposed Service)					
<i>Previous Day Balance/Detail Reporting</i>					
Monthly Maintenance, First Account	1			20.00	20.00
Monthly Maintenance, Additional Accounts (2-10)	2			20.00	40.00
Balance Reporting, Per Item	327			N/Ch	0.00
Detail Reporting, Per Item	628			0.15	94.20
<i>Money Transfer Module</i>					
Monthly Maintenance	1			25.00	25.00
<i>Special Reports</i>					
Monthly Maintenance	1			N/Ch	
<i>Web based PC-ACH</i>					
Monthly Maintenance	1			50.00	
Total WebDirect Service					179.20
Total Savings					413.44

REPORT

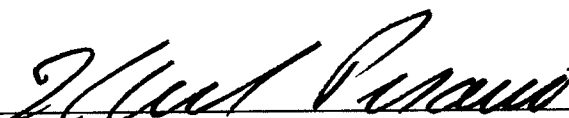
DATE: September 2, 2004

TO: The Administration Committee
The Regional Council

FROM: Tonya Gorham, Government Affairs Analyst
Phone (213) 236-1988 – e-mail: gorham@scag.ca.gov

SUBJECT: NARC Membership Dues

EXECUTIVE DIRECTOR'S APPROVAL



RECOMMENDED ACTION:

Authorize fiscal year 2004/05 expenditure of \$12,500 for annual membership dues to the National Association of Regional Councils (NARC).

SUMMARY:

The NARC represents regional councils and Metropolitan Planning Organizations in issues of transportation, community and economic development, homeland security and the environment. NARC advocates on behalf of regional councils for the coordination, planning and delivery of new and existing federal programs and promotes the use of regional councils as the forums for inter-jurisdictional decision making. SCAG has been a member of NARC for many years, with extensive participation. Supervisor Judy Mikels currently sits on the NARC Board of Directors, and plans are underway to begin her campaign for 2nd Vice President of the Board.

Through their advocacy efforts, NARC effectively represents the legislative and regulatory interests of regional councils. NARC was a major contributor to the development of ISTEA and TEA-21 and has been very active in the TEA-21 Reauthorization process. They also provide member education and services, helping members address regional challenges through conferences, publications, technical assistance and training.

NARC membership dues for fiscal year 2004-05 are \$12,500. In addition NARC is requesting additional support for their transportation advocacy program in the amount of \$12,500. Due to SCAG's membership in AMPO for transportation issues, staff recommends paying \$12,500 for the membership dues portion only as the organization did in 2003-2004.

FISCAL IMPACT:

Approving this request will result in an expenditure of \$12,500 for the membership dues. Funding to pay for NARC membership dues is located within the Government Affairs section of the SCAG 2004-05 adopted budget.

ATTACHMENT:

NARC Invoice

T. Gorham
NARC 2004-05 Dues
docs#102040





National Assoc. of Reg. Councils
1666 Connecticut Ave, NW Suite 300
Washington, DC 20009-1039
202.986.1032 fax 202.986.1038

Invoice No. 1997-1352

INVOICE

Customer

Name SCAG
ATTN: Mark Pisano, Executive Director
Address: 818 W. 7th Street, 12th Floor
City Los Angeles State CA ZIP 90017
Phone

Date 4/15/2004
Order No.
Rep
FOB

Qty	Description	Unit Price	TOTAL
1	NARC Dues - Fiscal Year July 1, 2004 - June 30, 2005 MPO Transportation Supplement	\$12,500.00 \$12,500.00	
REMINDER			

Payment Details

- ☐ Cash
☐ Check
☐ Credit Card

Name
CC #
Expires

SubTotal	\$0.00
Shipping & Handling	
Taxes State	
TOTAL	\$25,000.00

Office Use Only

Payment due upon receipt.

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Policy Committee Summaries

August 2004

The following summaries contain Action Items under the purview of the respective Committee.

Community, Economic, and Human Development Committee	
Item #	Summary
4.1	<p>Policy Paper” Promoting Regional and State Policy Objectives Through Growth and Development Practice” – July 2004</p> <p>Staff presented this policy paper which proposes steps that the State might take to promote mutual objectives. The State, through discussions convened by Secretary of Business, Transportation, and Housing Sunne Wright McPeak, has expressed an interest in promoting better transportation and land use coordination, improving housing performance, and providing housing accountability at the local level. The policy paper suggests that the State might achieve these objectives by taking specific steps to support implementation of the 2004 RTP and the Compass Growth Vision. Todd Priest of the Building Industry Association of Southern California provided comments that generally supported the paper, but cautioned that Compass implementation might hamper housing affordability. There was substantial discussion from the Committee regarding how Compass implementation might proceed, and regarding how SCAG could measure housing performance. Staff replied that these issues deserved further discussion, not germane to this paper.</p> <p><i>The Committee voted unanimously to recommend that the Regional Council approve the paper.</i></p>
4.2	<p>Victor Valley Redevelopment Agency Housing Set-aside Review:</p> <p>Lynn Harris, Manager of Community Development described a request by the Victor Valley Economic Development Authority to defer payments to the low and moderate income housing set-aside fund. Ms. Harris described that the request fulfilled the requirements of State law, was generally consistent with SCAG policy objectives, and did not hamper the production of housing in the area.</p> <p><i>The Committee unanimously voted to recommend that the Regional Council approve a resolution confirming the Authority’s findings.</i></p>

Policy Committee Summaries

August 2004

The following summaries contain Action Items under the purview of the respective Committee.

Energy and Environment Committee

Item #	Summary
5.1	CALFED Bay-Delta Improvement Package The Committee was asked to adopt Resolution #04-454-1 to urge state and federal authorities to fund and implement coordination on water issues. <i>The motion to adopt the Resolution passed.</i>

Transportation and Communications Committee

Item #	Summary
4.1	Draft 2004 Regional Transportation Improvement Program (RTIP) One of the main obstacles to adopting the RTIP is the \$559 million shortfall for TCM (Transportation Control Measure) projects, which include the San Fernando Bus Rapid Transit project, and HOV lanes on the I-5 between the SR-134 and SR-170 among others. SCAG is looking for the LACMTA to provide direction as to their funding priorities. Staff will work with MTA staff. <i>TCC members unanimously approved staff recommendation to extend the 2004 RTIP adoption by a month.</i>

REPORT

DATE: September 2, 2004

TO: Administration Committee and Regional Council

FROM: Heather Copp/ CFO *HC*

SUBJECT: Amendment to the SCAG Employee Travel Policy

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION: Approve

BACKGROUND: The SCAG Employee Travel Policy is being amended to include the following:

1. New language: Employees may request the web-rate from Patterson Travel and determine if it is the most economically feasible. The web-rate is usually non-refundable and possibly non-transferable. Please consider when making a reservation.

This addition will allow employee's to take advantage of lower airfare when possible.

2. New language: Exception: If there is a SCAG Board function that an employee must attend and the hotel rate exceeds the SCAG allowable rate, the Executive Director can authorize the amount of lodging that exceeds the SCAG allowable rate to be paid out of the general fund.

This addition will keep the employees from personally absorbing the cost of lodging over the allowable rate when required to attend Board functions that are not held at SCAG offices. This typically occurs during a Board retreat. For example: The lodging rate for the Board retreat in Temecula was \$109.00 and the SCAG reimbursable rate was \$84.00. Normally the employee would have to absorb the difference. This change would allow them to be reimbursed from the general fund the difference between the \$109 and the \$84 with the Executive Director's approval.

3. New language: Per the Federal per diem policy, if an employee is staying at a hotel where the conference is being held and the conference rate exceeds the Federal out-of-state lodging rate, reimbursement can be made for the higher rate if pre-approved by SCAG's Deputy Director and is in accordance with the Federal per diem policy.

This language explicitly allows SCAG to pay conference rate lodging prices when attending a conference consistent with the federal travel policy.

FISCAL IMPACT: None *HC*



Travel Policy and Guidelines.

Welcome to the Travel Policy Section. This section provides policy and guideline information associated with your official business travel. It is the policy of SCAG to maintain an accountable travel plan. An accountable travel policy satisfies four key requirements: (1) business related, (2) substantiation of expenses, (3) return of unspent amounts, and (4) timeliness. We recommend that staff use the most cost-effective choice (considering both direct expense as well as staff time) when incurring reimbursable travel expenses. Actual travel costs shall be considered reasonable and allowable, to the extent such costs do not exceed charges normally allowed by operations as a result of SCAG's policy.

AUTHORITY TO TRAVEL

Travel, other than mileage only travel, must be approved and authorized by management before the travel begins. A travel authorization (TA) form, <http://www.scag.ca.gov/formbank/>, must be filled out and signed by the staff member. The staff member is responsible for providing the date and purpose of the travel, WBS number, and the estimated cost of transportation, hotel, meals, and other costs, which may arise. The staff member must also verify the available budget. When the TA form is completed and submitted to the manager and director for review, approval, and authorization, the cost will be encumbered against the travel budget. Manager/Director approval must be conditioned on available budget in the appropriate work element.

MILEAGE RATE CONDITIONS

The mileage rate of reimbursement for private vehicle usage is \$.34 cents per mile. Mileage claimed is supported by a statement of description of travel expenses containing a description of the beginning and ending destination points. See Less than or greater than 24 hours travel for rules.

MODES OF TRANSPORTATION

Policy requires employees to use the method of transportation, which is in the best interest of SCAG.

AIRLINE AND CAR RENTAL

SCAG participates in a travel Program. The program allows SCAG to use the State approved Travel Agency, Patterson Travel and use of a Business Travel Account through American Express. Patterson has assigned an individual Business Travel Account Number (BTN) through American Express to SCAG staff members who frequently travel. Do not let anyone else use your number. Additionally, each Department has been assigned a group BTN for other staff use. Each Department's Senior Administrative Assistant will be responsible for the group's BTN number and for the handling of the travel arrangements. The BTN number is only valid with Patterson Travel Agency; this is not a regular American Express credit card.

- ☐ Employees are required to use the SCAG official travel agency. Failure to use the official travel agency may result in traveling employees securing non-refundable flights or flights purchased for greater than the SCAG reimbursable rate. Employees are liable for any amounts paid over the SCAG official contract rate. Employees may request the web-rate from Patterson Travel and determine if it is the most economically feasible. The web-rate is usually non-refundable and possibly non-transferable. Please consider when making a reservation.
- ☐ Employees are required to complete the SCAG 's Travel Authorization (TA) form. If you need an estimated cost of travel to complete your TA form, you may obtain it by contacting Patterson Travel Consultant at 1-800-353-3565 or (916) 929-3661
- ☐ Once your TA is approved, complete the Patterson Travel **ResFAX** form (see form attached). The ResFAX form and your TA form must be fax/e-mail , by the department's Senior Administrative Assistant, to Patterson Travel .FAX: (916) 9255-1509 or (916) 925-0873
- ☐ Please ensure that the following information is provided to the travel consultant:
 - Your name (Person making the arrangement)
 - Traveler name(s)
 - Date(s) of travel

- Origin and destination of your air travel
 - Preferred airline and flight numbers (if known)
 - Departure and/or arrival times desired
 - Car rental needs
 - Special ticket delivery instructions, if any
 - Advise if you already have a reservation and are making a change
- ☐ After Patterson travel has completed your travel reservation, the itinerary will be faxed or e-mailed within 48 hours. The itinerary will include all the travel information required for your trip and a **confirmation number**. If you have not received your confirmation within 48 hours, please contact Patterson Travel
- ☐ Car Rentals: Employees needing a car rental during the trip will indicate this on the Patterson ResFAX form. Patterson Travel will reserve the rental car approved under our contract. Employees who operate vehicles on official business must have a valid California driver's license.
- ☐ **Changes and Cancellations:** If your entire trip or a portion of your trip needs to be cancelled, Patterson must be notified as soon as possible preferably by e-mail. Unused airline tickets and unused ticketless flight reservations must be cancelled within 24 hours after the flight time as this is considered a prepayment and will not be refunded unless cancelled. **They should NOT be traded in or held for future flights.** If you were issued a refundable paper ticket, return it to Patterson Travel for processing. In the event of a schedule change by a provider regarding a reservation, Patterson will notify the appropriate SCAG contact immediately. In most cases, a schedule change does not require any modification to existing tickets, however, if this is not the case, you will be notified by the Patterson Consultant.
- ☐ **Emergency Travel:** Emergency travel, other than mileage, will require the approval of a Director. An example of this would be the situation when the original traveler is unable to make the trip and decides to send another staff member in his/her place. Patterson charges a fee for this service; therefore, it is only to be used in emergency travel situations. Emergency travel should be made through Patterson's after hour service and **not** directly with the airlines. These arrangements should be made by contacting (800) 823-9188, indicate you are traveling on SCAG business
- ☐ **Note: only the Patterson BTN will secure the SCAG contract rate.**

Note: Employees may view booked itineraries on line at www.viewtrip.com. You will need your Passenger Name Record Locator. The Record Locator is on all itineraries located on the top-left side of the invoice. From viewtrip.com, you will also be able to view FlightTracker. FlightTracker will give you the current status of any flights between major cities within the United States and Canada.

MODES OF TRANSPORTATION-OTHER

- ☐ Private vehicle: Employees who operate private vehicles on official business must have an actual California driver's license and appropriate auto insurance. Reimbursement will be based on mileage.
- ☐ Rental car: Reservations must be made through Patterson Travel Agency. The contracted rate used is for a compact vehicle. Vehicle upgrades must be justified and have supervisor's approval. Travelers are encouraged to refuel gas tanks prior to returning vehicles. Receipts for fuel purchase shall be submitted with your Travel/Regional Expense Reimbursement Form.
- ☐ Public transportation
- ☐ A taxi should only be used if it is the best alternative when evaluating cost/time
- ☐ A taxi must not be used between home and SCAG.
- ☐ Reimbursement is not allowed for motorcycle, private plane, or boat use.

SHORT TERM TRAVEL ASSIGNMENTS

Policy:

When the following conditions are met, short-term lodging and meals may be allowed if travel is:

- No more than 30 calendar days
- At least 50 miles away from staff's headquarters and residence

Lodging Rates:

a) Actual up to \$84.00, Statewide, plus taxes and surcharges. Exception: If there is a SCAG Board function that an employee must attend and the hotel rate exceeds the SCAG allowable rate, the Executive Director can authorize the amount of the lodging that exceeds the SCAG allowable rate to be paid out of the general fund.

b) Actual up to \$110.00, plus taxes and surcharges, in the following counties:

- Los Angeles County
- San Diego County

c) Actual up to \$140.00, plus taxes and surcharges in the following counties:

- Alameda County
- San Francisco County
- Santa Clara County
- San Mateo County

d) For out-of-state travel, actual costs up to the Federal rates for out of state lodging, plus taxes and surcharges. Per the Federal per diem policy, if an employee is staying at a hotel where the conference is being held and the conference rate exceeds the Federal out of state lodging rate, reimbursement can be made for the higher rate if pre-approved by SCAG's Deputy Director and is in accordance with the Federal policy. Reference www.policyworks.gov, for Federal per diem rates.

Meal and Incidental Rates

The reimbursement of meals and incidentals has both a time and monetary restraint; both conditions must be documented and met. An employee may not claim meal reimbursement when the meal is furnished to the employee or otherwise paid for. **Note: Alcoholic beverage purchases are not reimbursed.**

Meal and Incidental Rates and Mileage Requirements-Travel Less Than 24 Hours

Breakfast cost?

If your travel, from home/meeting, begins at or before 6:00 a.m., and ends at or after 9:00 a.m., you may claim the actual amount of your breakfast up to **\$6.00**.

Lunch cost?

Lunch and incidentals **are not to be claimed** for trips less than 24 hours.

Dinner cost?

If your travel, from home/meeting, begins at or before 4:00 p.m., and ends at or after 7:00 p.m., you may claim the actual amount of your dinner up to **\$18.00**.

Incidental costs?

Incidentals **cannot** be claimed for trips less than 24 hours.

Mileage?

Mileage is reimbursed for actual miles traveled in excess of round trip distance from home to work.

Meal and Incidental Rates and Mileage Requirements-Travel More Than 24 Hours (or Last fractional Part)

Breakfast cost?

If your travel, from home/meeting, begins at or before 6:00 a.m., and ends at or after 8:00 a.m., you may claim the actual amount of your breakfast up to **\$6.00**.

Lunch cost?

If your travel, from home/meeting, begins at or before 11:00 a.m., and ends at or after 2:00 p.m., you may claim the actual amount of your lunch cost up to **\$10.00**

Dinner cost?

If your travel, from home/meeting, begins at or before 4:00 p.m., and ends at or after 7:00 p.m., you may claim the actual amount of your dinner cost up to **\$18.00**.

Incidental costs?

After each 24-hour period, you may claim the actual amount of your incidental cost up to **\$6.00**

The term "incidental expenses" includes, but is not limited to, expenses for laundry, cleaning and pressing of clothing, and fees and tips for services, such as porters and baggage carriers. The term does not include taxicab fares, lodging taxes, or the cost of telegrams or telephone calls.

Mileage?

Mileage is reimbursed for actual miles traveled.

Meal and Incidental Rates and Requirements-Travel More Than 24 Hours

There is **no travel time test** for a 24 hour travel day (i.e. If you begin your travel on Tuesday, return from your travel on Thursday, Wednesday is considered a 24 hour travel day, therefore the cost of meals and incidentals are reimbursable up to their respective dollar limit).

Note: For out-of-state travel, meals and incidentals rates are the same as the California rate

TRAVEL EXPENSE REIMBURSEMENT

Policy and Guidelines

The policy requires the reimbursement request for travel related expenses be submitted within 60 days after you incur the expenses. There are two forms (Travel less than 24 hours and Travel greater than 24 hours) which may be used to reimburse travel expenses. These forms are accessed www.scag.ca.gov/formbank. The employee and the approving manager are responsible for ensuring the travel budget is adequate to cover the travel amounts claimed. Before approving the reimbursement, the manager or director must review the expenditures and validate the amounts against the budget.

- ☐ The travel expense reimbursement form shall either be typewritten or in ink and properly itemized. You must attach the Travel Authorization form to the travel expense reimbursement form.
- ☐ Receipts, **originals only**, must be taped to 8 1/2 x 11" paper then stapled to the Expense Reimbursement Form.
- ☐ Receipts Requirements: see below

Receipt Requirements:

Type of Expense	Receipt Required (YES)	No Receipt Required (NO)	Explanation
BUSINESS EXPENSES:			
Business phone calls, faxes, office supplies, etc	X		When over \$5.00
EXPENSES:			
Lodging (ALL types of lodging)	X		

Meals: use California rates		X	Breakfast-Actual up to \$6.00. Lunch-Actual up to \$10.00. Dinner-Actual up to \$18.00.
Incidentals		X	Actual up to \$6.00
TRANSPORTATION:			
Airfare	X		
Train	X		When the cost exceeds \$25.00
Gas for rental car	X		
Parking, taxis, shuttles, streetcars, local rapid transit, and road tolls	X		When the cost exceeds \$10.00
Rental Cars	X		

- ☐ Claims may not crossover more than one fiscal year. Submit separate claims forms when travel extends beyond one fiscal year.

What goes on a Reimbursement Form

- ☐ Claimant's information.
- ☐ All appropriate expenses (lodging, transportation, meals, mileage, etc).
- ☐ Dates and times when expense occurred.
- ☐ Location/purpose of each trip, and any additional justification required.
- ☐ Original signatures of both claimant and supervisor and, when applicable, the designated manager's signature. **All signatures must be in ink.**
- ☐ Appropriate expenditure WBS number.

FREQUENTLY ASKED QUESTIONS

1. If my Travel/Regional Expense Reimbursement Form has been misrouted or lost en route to Accounting, can I send a duplicate photocopy for payment?

Yes, however, the employee and supervisor must resign the Travel/Regional Expense Reimbursement Form. In addition the form must indicate "RESUBMITTAL" in bold letters across the top of the form and copies of the receipts must be attached with an explanation the originals were lost en route.

2. Does my lodging receipt need to be itemized?

Yes, lodging receipt must be itemized listing all expenses (room, tax, phone call, etc.) separately. The receipt must also have a zero balance showing the payment was made.

3. If I rent a vehicle for SCAG business and will also be traveling on personal business, can I use the same rental car?

No, the rental for personal business must be under separate contract. Employees are prohibited from using the state contract rental rates. Employees wanting to retain a commercial vehicle for personal use must make prior arrangements with the vendor at the public commercial rate.

4. What happens if I lose a receipt?

In the event of a lost receipt, employees are responsible for obtaining a copy of the receipt from the vendor (a fax copy will suffice). In the few cases where a copy of a lost receipt cannot be obtained (i.e., parking), you must document in writing the circumstances beyond your control. In the absence of a receipt, the amount of the reimbursement shall be limited to the receipt requirement base amount noted in the table on page 4. For example in the absence of a receipt for parking, the refund amount shall be limited to \$10.00

CONTACT PHONE NUMBERS AND WEB SITE ADDRESSES

Phone and Fax Numbers

Patterson Travel Phone	(916)929-3661 or 1-800-353-3565
Patterson Travel -Emergency Travel- after hours	(800) 823-9188
Patterson Travel Fax	(916)925-1509 or (916) 925-0873

Web Site and Email Addresses

View Travel Booking/Trip Status	www.viewtrip.com
Federal Rate for Out of State Lodging	www.policyworks.gov
Forms Management	www.scag.ca.gov/formbank

ATTN: State Team**RESFAX****SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENT****(916) 925-1509****OR****(916) 925-0873****Travel Arranger Name:** _____**Instructions:**

1. Consult the Sacramento Flight guide for desired flights. If you do not have desired flights in mind, you can indicate origin and destination with approximate departure and/or arrival times.
2. Indicate the desired flight(s) in the section below.
3. Fax/e-mail this request to the California Services Department at Patterson Travel.

	Airline	Dept time	Date	From	To	Car
Flight #1						
Flight #2						
Flight #3						
Flight #4						

Passenger(s): _____

State Department Name: Southern California Association of Government

Phone Number: _____ Fax Number: _____

E-mail Address: _____

Hotel Request: _____

REPORT

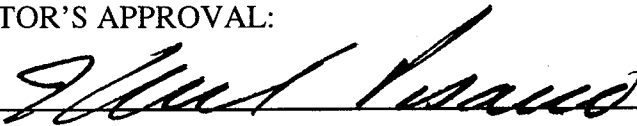
DATE: September 2, 2004

TO: Regional Council
Transportation Committee
Administrative Committee

FROM: Zahi Faranesh

SUBJECT: Maglev 2004' Conference in Shanghai

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION:

As recommended by the Maglev Task Force, approve participation and representation at the Maglev' 2004 Conference in Shanghai. Attendees may include elected officials and staff from SCAG and other stakeholders on the Initial Operating Segment, including the City of Los Angeles, City of Ontario and the San Bernardino Associated Governments, if costs are allowable from Federal Railroad Administration grants. Costs are not to exceed \$20,000.

BACKGROUND:

Shanghai will be hosting the 18th Annual International Conference on Magnetically Levitated Systems and Linear Drives in coordination with the Institute of Electrical Engineering, Chinese Academy of Sciences, National MAGLEV Transportation Engineering R&D Center and National Natural Science Foundation of China. The conference is highly technical in nature and will be held from October 26-28, 2004 at the Intercontinental Hotel in Pudong, Shanghai.

The Conference will host several expert speakers and will present the latest research on global Maglev issues and technology innovations. The agenda (attached) includes:

- Urban Transports – Industrial Developments and Projects
- Maglev and HSST – Safety and Operation Control
- Maglev – Power Supply Strategy
- Maglev – Propulsion and Linear Motors and Controls

This conference could be used as a tool for innovation in implementation strategies and technology enhancements, information on a wide range of topics and real, hands-on experience with an operational Maglev system.

On August 18, 2004, the Maglev Task Force reviewed information presented on the Conference and suggested that IOS Stakeholders, including elected officials and staff from SCAG and elected officials from City of Los Angeles, City of Ontario and the San Bernardino Associated Governments, participate and represent the Region at the

REPORT

Conference. One or two representatives from each group will be contacted pending approval of SCAG's participation.

Additional information on the conference is attached.

FISCAL IMPACT:

Projected Conference Cost:

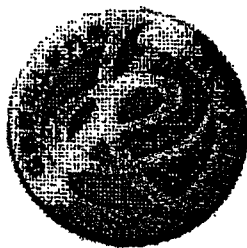
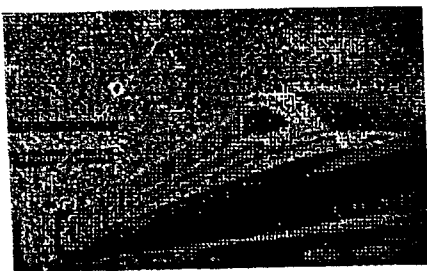
Registration	\$500*
Hotel	\$300
Airfare	\$1,000
Food/Misc	\$200
Average Cost / person	\$2,000

*SCAG staff is working to have registration fees waived.

Total costs incurred not to exceed \$20,000.

SCAG is investigating if costs incurred would be reimbursed from the Federal Railroad Administration (FRA) grants included in FY04-05 OWP under WBS Element numbers 05-240, 05-241 and 05-242. If costs are not allowable by the FRA, then staff recommends SCAG not participate in this event.

Staff will be presenting detailed information on attendees and reimbursable cost sources to the Regional Council on September 2, 2004.



Maglev' 2004

18th International Conference on

Magnetically Levitated Systems and Linear Drives



What's new (May 27) **it's**

Call for Sponsor **it's**

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MAGLEV'2004

AIMS OF THE CONFERENCE

The objectives of "MAGLEV'2004- The 18th International Conference on Magnetically Levitated Systems and are to present and discuss the state of the art of the social, environmental, economical, scientific and technical \pm speed and urban passenger MAGLEV transportation systems and the latest developments on magnetic levitation as well as electromagnetic propulsion and industrial applications. MAGLEV'2004 will consist of three major parts:

- MAGLEV'2004 Opening Day: Invited speakers will present the state of the art. This day is dedicated to public interested in the political, economical, social and industrial aspects of Maglev Systems;
- MAGLEV'2004 Conference: Presentation of the papers, dedicated to specialists of the different concerns;
- Ride on High Speed MAGLEV: Visits and a Ride on Shanghai MAGLEV Demonstration and Operation arranged.

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MAGLEV'2004

REGISTRATION

Conference registration will take place at the Lobby of Intercontinental Hotel, Pudong, Shanghai from 10:00 to October 25 (Thursday). The information desk of the Conference will open from 9:30 to 17:00 on each meeting Meeting Hall. If you have any question during the Conference, please feel free to contact the information desk.

For early planning purposes, all participants who wish to participate in the Conference are encouraged to register July 1, 2004. On-line reservation is strongly recommended.

Registration Fees:

	if paid before August 20, 2004	if paid after August 20, 2004
Regular participants	US\$500	US\$600
Student participants as first author	US\$500	US\$600
Student participants as non-first author	US\$260	US\$320
Accompanying persons	US\$260	US\$260

1. The registration fee includes only one free paper, any additional paper is by US\$100 per paper.
2. If the first author could not attend the conference, US\$200 should be paid.
3. All incurred fees charged by the processing banks prior to the arrival of fund should be borne by participants themselves.

Full payment of the registration fee covers:

A. For Regular and Student Participants:

1. Attendance at the Conference
2. Final Program and Proceedings
3. Welcome Reception and Banquet
4. Coffee Breaks
5. Lunches (October 26, 27, and 28)
6. Visit and a ride on Shanghai Maglev demonstration and operation line in the morning of October 27.

B. For accompanying persons:

1. Attendance at the Opening Ceremony
2. Welcome Reception and Banquet
3. Coffee Breaks
4. Lunches (October 26, 27, and 28)
5. Visit and a ride on Shanghai Maglev demonstration and operation line in the morning of October 27.

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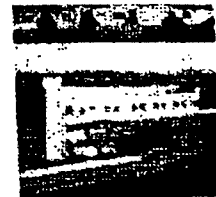
Conference Organizing Committee

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MAGLEV'2004

TOPICS

The MAGLEV'2004 will cover all technical topics and aspects related to the following areas of the program.

1 MAGLEV- World Wide High Speed Industrial Developments and Projects

1.1 Scientific, Technical and Industrialization Status

1.2 Marketing Political and Financial Aspects

1.3 Social, Environmental and Ecological Aspects- Economical Balances

1.4 Comparisons: Evaluations of High Speed Systems (MAGLEV versus High Speed Rail Systems, Air Trans

2 MAGLEV- New Ideas

2.1 Scientific, Technical and Industrialization Status

2.2 Marketing, Political and Financial Aspects

3 URBAN TRANSPORTS (Linear Propulsion) Industrial Developments and Projects

3.1 Scientific, Technical and Industrialization Status

3.2 Marketing, Political and Financial Aspects

3.3 Environmental and Ecological Aspects- Economical Balances

3.4 Comparisons: Evaluations with Conventional Systems

4 MAGLEV- Power Supply Strategy

4.1 Ground Power Supply Network to Local Power Network

4.2 Power Transformation Station

4.3 Power Supply for Propulsion

4.4 Energy Balance

5 MAGLEV- Vehicle; Guideway; Infrastructure

5.1 Vehicle and Spatial Integration Designs

5.2 Aerodynamic Behavior and Aerodynamic Impacts on Design Constraints

5.3 Dynamic Mechanical Resonance and Vibrations, Speed and Frequency Limits

6 MAGLEV and HSST- Safety and Operation Control

6.1 Safety and Design Constraints (Stations, Vehicles, Track, Tunnels)

6.2 Safety and Exploitation Constraints

6.3 Safety and Innovations

7 Propulsion and Linear Motors: Motors and Controls

7.1 Scientific and Technical Developments

7.2 Transport System Applications

7.3 Industrial Applications

7.4 Propulsion: Magnetic Hydrodynamic

8 Magnetic Levitation and Guidance: Transducers and Controls

8.1 Electromagnetic Levitation

8.2 Electrodynamics Levitation

8.3 Super Conducting Quantum Levitation

9 Transfer of Energy to a Vehicle and on Board Energy Supply

9.1 Scientific and Technical Developments

9.2 High Speed Transport System Applications

9.3 Low Speed Transport System Applications

7.4 Industrial Applications
9.5 Fuel Cells, Super Condensators

10 Magnetic Bearings
10.1 Passive Magnetic Bearings
10.2 Active Magnetic Bearings
10.3 Super Conducting Magnetic Bearing

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MAGLEV'2004

1. Visas

An official invitation letter will be issued to those who have returned the final Registration Form. With this letter the nearest Chinese Embassy or Consulate to apply for entry visa(s). To allow ample time for a successful visa are kindly requested to do the on-line registration before the deadline. If any problem arises, please contact the Conference for assistance.

2. Arrival

Taxis are always available at the Airport. Taxi fares to the hotel will be about RMB120 (or about US\$15-20). may help you in taking a taxi to the hotel.

Please take me to the InterContinental, thanks!

请送我到新亚汤臣洲际大酒店, 谢谢!

(地址: 浦东新区张扬路777号)

Please take me to the Tong Mao Hotel, thanks!

请送我到通茂酒店, 谢谢!

(地址: 浦东新区松林路 357 号)

Please take me to the Baosteel Hotel, thanks!

请送我到宝钢大厦酒店, 谢谢!

(地址: 浦东新区浦电路 370 号)

3. Refund Policy and Cancellation Charge

Cancellation received by the Secretariat	Before Aug. 20, 2004	After Aug. 20, 2004 and before Sept. 10, 2004	After Sept. 10 and before Oct. 10, 2004	After Oct. 10, 2004
Registration fee for first author	US\$200	US\$290 charged	US\$380 charged	No refund
Registration Fee for non-first author	0	US\$100 charged	US\$190 charged	No refund
Additional paper	100%	100%	100%	
Pre- & Post- Conference Tour	0	US\$60 charged	US\$150 charged	US\$200

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4. Contact Person in China

Ms. Cuiling LAN
Secretariat of MAGLEV2004
Center for International Scientific Exchanges, CAS
52 Sanlihe Road, Beijing, 100864, China
Tel: +86-10-68597751 or 68597750
Fax: +86-10-68597753
Email: cllan@cashq.ac.cn

5. Currency Exchange

In China, only RMB is used. However, exchange centers can be found at airports, most hotels and large shopping centers. When exchanging money, please keep your receipt by which you can change any remaining RMB back to foreign currency when leaving China. Visa, Master, American Express, Diners Club, JCB, and other credit cards are accepted in many restaurants and hotels. But it might be difficult to draw cash with credit cards. The Bank of China and most hotels can cash travelers cheques issued by any foreign bank or financial institution. Participants will need to show a passport and pay a 0.75 percent service charge. Travelers cheques signed over to a third party cannot be cashed in China, but can be presented for collection when leaving China.

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REPORT

DATE: September 2, 2004
TO: Energy and Environment Committee
FROM: Ted Harris, Associate Regional Planner, harrist@scag.ca.gov, (213) 236-1916
RE: 2004 Regional Transportation Improvement Program (2004 RTIP) Air Quality Conformity

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION:

Recommend that the Regional Council approve the air quality conformity determination for the 2004 RTIP as part of resolution # 04-453-2.

SUMMARY:

The federal Clean Air Act (CAA) requires SCAG to determine transportation air quality conformity for the 2004 Regional Transportation Improvement Program (RTIP). Specifically, section (176(c) (42 U.S.C. 7506(c)) requires transportation plans and programs to be consistent with ("conform to") the air quality goals established by a state air quality implementation plan (SIP). The purpose of the state SIP is to meet the U.S. Environmental Protection Agency (EPA) standards for air quality.

According to the CAA, transportation plans and programs cannot:

- create new violations of the federal air quality standards;
- increase the frequency or severity of existing violations of the standards; or
- delay attainment of the standards

The five key tests used to determine transportation air quality conformity for the RTIP include:

1. Interagency consultation and public involvement
2. Consistency of the RTIP with the Regional Transportation Plan (RTP)
3. Regional emission budgets
4. Funds to implement
5. Timely implementation of Transportation Control Measures (TCMs)

The process to develop and circulate the 2004 RTIP has fulfilled all of the requirements to ensure meaningful public involvement and coordinated interagency consultation. SCAG released the Draft RTIP for a 30-day public review and comment period on June 18, 2004. During June-July 2004, SCAG conducted seven public hearings one in each county and one for the entire SCAG region. A complete set of the Draft 2004 RTIP documents was posted on SCAG's web-site on June 18, 2004. At the same time, copies of the Draft 2004 RTIP documents were placed in the public libraries and

REPORT

notices of public hearings and availability of the Draft documents were advertised in the major regional newspapers. SCAG's Transportation Conformity Working Group has served as a forum for interagency consultation, and additionally, there were many ad-hoc meetings held between the involved agencies for this purpose.

The 2004 RTIP is consistent with the 2004 Regional Transportation Plan (RTP). Specifically, SCAG's 2004 RTIP project listing is consistent with the policies, programs, and projects in the 2004 RTP.

The results of the transportation and associated emissions modeling demonstrate that emissions associated with implementing the 2004 RTIP will not exceed the applicable regional emission budgets established in the State Implementation Plan (SIP). Furthermore, the modeling meets or exceeds the modeling requirements mandated by federal regulations and the analysis employs the latest planning assumptions.

The 2004 RTIP meets the fiscal constraint requirements. All projects listed in the 2004 RTIP are financially constrained for all fiscal years. Specifically, funds are available and committed for the first two years of the RTIP, and funds are reasonably expected for the years of the RTIP beyond the first two years.

After extensive review and coordination with the implementing agencies, staff have determined that committed Transportation Control Measures (TCMs) designated in the 2002 RTIP have been given funding priority, are expected to be implemented on schedule, and any initial obstacles identified have been or are being overcome. Furthermore, TCM strategies listed in the 1994 (as amended in 1995) Ozone AQMP/SIP for the VC/SCCAB were given funding priority and are on schedule for implementation.

CONCLUSION

Staff have determined that the 2004 RTIP has fulfilled the requirements for all of the conformity tests and recommends that the Regional Council approve the positive conformity determination as part of the approval resolution (04-453-2) of the 2004 RTIP.

ATTACHMENTS

Powerpoint Presentation
Under separate cover Resolution 04-453-2 will follow

FISCAL IMPACT:

The staff resources for determining air quality conformity for the 2004 RTIP are contained within the Fiscal Years 2003/04 and 2004/05 SCAG budgets.

**Energy and
Environment
Committee**

2004 RTIP Air Quality Conformity

Ted Harris
Air Quality Program Lead
Southern California
Association of Governments

September 2, 2004

The 2004 SCAG Regional Transportation Improvement Program (RTIP)
1

**The 2004
Regional
Transportation
Improvement
Program (RTIP)**

- 6 year capital listing of transportation projects
- Fiscal Years 2004/05 – 2009/2010
- Requires state and federal approval and conformity

The 2004 SCAG Regional Transportation Improvement Program (RTIP)
2

**2004 RTIP
Conformity
Tests**

- 1) Public involvement
- 2) Consistency with 2004 RTP
- 3) Regional emissions budgets
- 4) Funds to implement
- 5) Timely implementation of Transportation Control Measures (TCMs)

The 2004 SCAG Regional Transportation Improvement Program (RTIP)
3

Public Involvement

- **Meaningful public participation**
 - 30-day public review of Draft RTIP
 - 7 public hearings
 - SCAG Website
 - Public Libraries
 - Notices posted in major newspapers
- **Coordinated interagency consultation**
 - Transportation Conformity Working Group
 - Ongoing coordination meetings

The 2004 SCAG Regional Transportation Improvement Program (RTIP)

4

Consistency with the 2004 RTP

2004 RTIP is consistent with 2004 RTP's

- Policies
- Programs
- Projects

The 2004 SCAG Regional Transportation Improvement Program (RTIP)


5

Regional Emission Tests

- **Emissions for 2004 RTIP are within the SIP budgets**
 - VOC/ROG
 - NOx
 - CO
 - PM10
- **Analysis meets federally mandated modeling requirements**
- **Employs latest planning assumptions**


The 2004 SCAG Regional Transportation Improvement Program (RTIP)

6




Funds to Implement

- RTIP is financially constrained
- Funds are committed for first 2 years of the RTIP
- Funds are reasonably available for the 3rd to 6th years of the RTIP




The 2004 SCAG Regional Transportation Improvement Program (RTIP)

7




Transportation Control Measures (TCMs)

TCMs are identified and committed transportation projects or programs that reduce vehicle use or change traffic flow or congestion conditions for the purposes of reducing emissions from transportation sources (40 CFR 93.101).



The 2004 SCAG Regional Transportation Improvement Program (RTIP)


8



Timely Implementation of TCMs

TCMs in 2004 RTIP

- Given Priority
- On schedule or
- Obstacles are being overcome



The 2004 SCAG Regional Transportation Improvement Program (RTIP)

9

Conformity Lapse

Serious consequences include:

- SCAG could not approve non-exempt regionally significant projects,
- No federal approval of capacity enhancing projects, and
- The region would lose flexibility and could be forced to redirect up to \$8.5 billion in transportation funds.



The 2004 SCAG Regional Transportation Improvement Program (RTIP)

10

Recommended Action

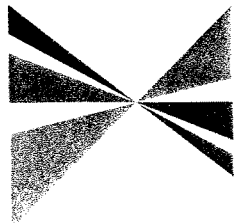
Recommend that the Regional Council approve the conformity determination for the 2004 RTIP as part of Resolution 04-453-2



The 2004 SCAG Regional Transportation Improvement Program (RTIP)

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SOUTHERN CALIFORNIA



**ASSOCIATION OF
GOVERNMENTS**

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RESOLUTION No.04-453-2

RESOLUTION OF

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

TO ADOPT THE FY 2004/05 – 2009/10

**REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM (2004 RTIP)
IN ACCORDANCE WITH FEDERAL REQUIREMENTS**

WHEREAS, the Southern California Association of Governments (SCAG) is the federally designated Metropolitan Planning Organization (MPO) pursuant to 23 U.S.C. §134(a) and (g) for the Counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino and Ventura, and as such, is responsible for the preparation, adoption and regular revision of the Regional Transportation Plan (RTP) and the Regional Transportation Improvement Program (RTIP) pursuant to 23 U.S.C. §§134(g) 49 U.S.C. §5303(f) and 23 C.F.R. §450.312;

WHEREAS, also pursuant to Section 130004 of the California Public Utilities Code, SCAG is the designated Regional Transportation Planning Agency and, as such, is responsible for preparation of both the RTP and RTIP under California Government Code §§ 65080 and 65082 respectively; and

WHEREAS, SCAG's FY 2004/05 – 2009/10 RTIP (2004 RTIP) is a staged, multiyear, intermodal program of transportation projects; which covers six fiscal years includes a priority list of projects to be carried out in the first three fiscal years (2004/05, 2005/06 and 2006/07) and for informational purposes a prior year of obligated funds;

WHEREAS, 23 U.S.C. § 134(h)(2)(C) and 23 C.F.R. § 450.324(f)(2) requires the 2004 RTIP to be consistent with the 2004 RTP;

WHEREAS, 23 U.S.C. § 134(a), 49 U.S.C. § 5301 *et seq.*, 23 CFR § 450.312, and 49 CFR § 613.100 require SCAG, as the designated MPO, to maintain a continuing, cooperative and comprehensive transportation planning process in its development of the RTP and RTIP;

WHEREAS, 42 U.S.C. § 7506(c)(1) requires SCAG's 2002 RTIP to conform with the applicable State Implementation Plan (SIPs) developed for the federal non-attainment and maintenance areas in the Mojave Desert Air Basin, the Ventura County portion of the South Central Coast Air Basin, the South Coast Air Basin, and the Salton Sea Air Basin;

WHEREAS, Federal regulations at 23 CFR § 450.332(e) require that in non-attainment and maintenance areas, funding priority be given to timely implementation of transportation control measures (TCMs) contained in the applicable SIPs in accordance with the conformity regulations at 40 CFR Parts 51 and 93;

WHEREAS, SCAG has worked concurrently with local, state and federal jurisdictions in a continuing, cooperative and comprehensive manner as required by provisions of Federal and State law on the transportation planning processes;

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WHEREAS, the Draft 2004 RTIP was available for public review and comment from June 18, 2004 to July 19, 2004;

WHEREAS, public hearings were conducted in June and July in the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura on the Draft 2004 RTIP, as well as on July 15, 2004 at the Southern California Association of Governments in Los Angeles County;

WHEREAS, SCAG has complied with all applicable federal requirements in developing the 2004 RTIP, including, but not limited to:

- (1) TEA 21 (23 U.S.C. § 134, *et seq.*)
- (2) The Metropolitan planning regulations at 23 C.F.R. § 450 *et seq.*;
- (3) Government Code Section 65080 *et seq.*;
- (4) Sections 174 and 176(c) and (d) of the Clean Air Act [42 U.S.C. §§ 7504, 7506(c) and (d)];
- (5) Title VI of The Civil Rights Acts of 1964 and the Title VI assurance executed by each State under 23 U.S.C. § 324 and 29 U.S.C. § 794;
- (6) Title II of the American with Disabilities Act of 1990 (42 U.S.C. § 120001 *et seq.*) and U.S. DOT regulations "Transportation for Individuals with Disabilities" (49 CFR Parts 27, 37, and 38); and
- (7) The Department of Transportation's Final Environmental Justice Order, enacted pursuant to Executive Order 12898, which seeks to avoid disproportionately high and adverse impacts on minority and low-income populations with respect to human health and the environment and requirements set forth in U.S.D.O.T. Order 5610.2, FHWA Order 6640.23 and 23 C.F.R. § 450.316(b)(ii); and

NOW, THEREFORE BE IT RESOLVED that

(1) Southern California Association of Governments finds as follows:

- (a) The 2004 RTIP implements and is consistent with the adopted 2004 RTP, as required by TEA-21 and California Government Code § 65080.5(a);
- (b) The 2004 RTIP is consistent and in conformance with the portions of the applicable SIPs relevant to all air basins as required by 42 U.S.C. § 7506(c)(1) and accompanying Federal regulations at 40 CFR §§ 51 and 93; and
- (c) The 2004 RTIP currently demonstrates timely implementation of transportation control measures as reflected in the applicable SIPs for the South Coast Air Basin and the Ventura County portion of the South Central Coast Air Basin;

- (d) The 2004 RTIP is consistent with the estimate of available funds adopted by the California Transportation Commission as required by § 14525 of the California Government Code. That the 2004 RTIP includes a Finance Plan that indicates estimated resources from public and private sources to implement the 2004 RTIP as required by 23 U.S.C. § 134(h) (2)(B);

(2) SCAG in cooperation with the county transportation commissions shall aggressively pursue the following strategies to ensure the timely implementation of Transportation Control Measures:

- (a) Coalesce the region to seek transportation dollars through the federal appropriations process—obtaining federal discretionary dollars for some specified critical projects;
- (b) Re-evaluate the State's North/South allocation of funds—Ensuring the region's fair share of transportation dollars, particularly for projects critical to meeting conformity requirements.
- (c) Support design/build arrangements as appropriate—facilitating the implementation of innovative procurement arrangements to accelerate project delivery;
- (d) Reprioritize the funding of projects as may be necessary –working with appropriate transportation partners to identify non-TCM projects that are being delayed and shifting any programmed funds for such projects to critical TCM projects.
- (e) Work with appropriate transportation partners to consider substitution of projects as may be necessary.
- (f) Assess the possibility of transportation fund loan arrangements between counties to ensure the timely implementation of critical TCM projects.
- (g) Focus on local ballot initiatives to fund transportation projects including the imposition ½ cent sales tax measure as necessary.

(3) The Regional Council hereby adopts the 2004 RTIP for all six counties (Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura) in the SCAG region, which recognizes the following:

- (a) The 2004 RTIP does not preclude future amendments which may become necessary;
- (b) The 2004 RTIP constitutes endorsement for the purpose of Executive Order 12372 and 23 U.S.C. § 105; and
- (c) The 2004 RTIP will, upon approval of FHWA and FTA, replace previously endorsed RTIPs;

- (4) The Regional Council hereby adopts the 2004 RTIP and its conformity finding for all federal non-attainment and maintenance areas in the SCAG region;
- (5) SCAG's Executive Director is authorized to transmit the 2004 RTIP and its conformity findings to the Federal Transit Administration and the Federal Highway Administration to make the final conformity determination in accordance with the Federal Clean Air Act and EPA Transportation Conformity Rule at 40 CFR Parts 51 and 93;
- (6) SCAG's Executive Director is further authorized to transmit the 2004 RTIP to the Governor, the California Transportation Commission, the Federal Transit Administration and the Federal Highway Administration for inclusion in the Federal Transportation Improvement Program; and
- (7) The Regional Council hereby approves and adopts the 2004 RTIP incorporating herein all of the foregoing recitals.

Adopted by the Regional Council of the Southern California Association of Governments at a regular meeting on this 2st day of September 2004.

Ronald Roberts
President, SCAG
Councilmember, City of Temecula

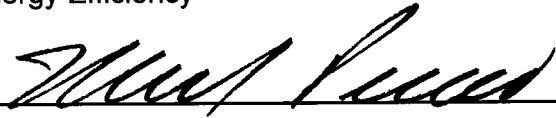
Attest: _____
Mark Pisano
Executive Director

Approved as to Legal Form: _____
Karen Tachiki
Chief Counsel

REPORT

DATE: September 2, 2004
TO: Regional Council
FROM: Nancy Pfeffer, Sr. Planner, 213-236-1869, e-mail: pfeffer@scag.ca.gov
SUBJECT: Resolution on Building Energy Efficiency

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION:

Adopt Resolution #04-454-2: To Encourage Adoption of Local Building Energy Efficiency Ordinances.

SUMMARY:

The resolution encourages SCAG jurisdictions to adopt an ordinance (based on a model) requiring new buildings to exceed state building energy standards by 10-15%, depending on the building type. In response to input from the Energy & Environment Committee, the resolution includes a provision requesting the California Energy Commission to make the state standards uniformly more stringent for all jurisdictions.

BACKGROUND:

The dramatic population growth forecasted for the SCAG region in the coming decades will involve the construction of numerous new buildings – residential, commercial, and governmental. Buildings are one of the largest consumers of energy, using one-third of total energy and nearly two-thirds of electricity. Generally, buildings use electrical power for lighting and air-conditioning and natural gas for water and space heating. Various appliances within buildings use both types of energy.

In order to alleviate the significant increase in energy consumption that will come with growth in the SCAG region, it is important to minimize the amount of energy used by buildings. Since the mid-1970's, the state of California has had building energy efficiency standards, referred to as Title 24 standards. In addition, there are several public and private programs designed to reduce building energy use even further. A notable public program is Energy Star, which sets standards for new home construction and for appliance energy use. An increasingly popular private program is the non-profit U.S. Green Building Council's Leadership in Environmental and Energy Design (LEED) program. This program offers varying levels of certification depending on the building design features, and covers energy use as well as use of water and building materials.

While building "green" can increase the initial cost of construction, recent studies have shown that the cost premium may average only about three percent, not 10-15% as had

REPORT

previously been thought. Moreover, investments in energy efficiency have been demonstrated to pay for themselves in operational savings. According to a study done for the California Sustainable Building Task Force, spending an extra \$100,000 on “green” building features would save at least \$1 million over the life of a \$5-million building. One large developer reports that efficiencies from its own Energy Star buildings are saving it \$13 million annually in operating costs.

A new state office building in Sacramento, housing the Department of Health Services, is estimated to be saving \$185,000 in annual energy costs through a design that is 40% more efficient than code. And the Inland Empire Utilities Agency reports that its two new headquarters buildings were built to LEED Platinum standards – the highest certification level – at a substantial savings over conventional building construction. The agency estimates that it continues to reap \$800,000 annually in electricity cost savings through measures that are 60% more stringent than the state code.

The City of Santa Monica in 2000 adopted a local ordinance requiring new construction, and renovations exceeding 50% of the cost of a new building, to exceed the Title 24 standards by 20-25%, depending on the building type.* The ordinance does not apply to one- and two-family residential structures or qualified historical buildings. The resolution provided will encourage local jurisdictions to adopt a similar ordinance, so that the region can experience the savings and environmental benefits associated with building energy efficiency measures as the population grows.

The following materials are attached:

- Resolution
- White paper: Supporting Greater Building Energy Efficiency in the SCAG Region
- Model ordinance (included in white paper).

FISCAL IMPACT:

Staff time in support of this analysis is covered by Work Element 05-290 in the current Overall Work Program. This work is funded by a grant from the U.S. Department of Energy’s Rebuild America program via the California Energy Commission. Adopting the regional resolution will have no fiscal impact on SCAG.

#101248 v1 - RC Report EE 9/04
Pfeffer

* The target percentages were reduced to 10-15% when the state building standards were tightened following the state’s 2000-2001 energy crisis.

**RESOLUTION #04-454-2 OF THE SOUTHERN CALIFORNIA
ASSOCIATION OF GOVERNMENTS TO ENCOURAGE
ADOPTION OF LOCAL BUILDING ENERGY EFFICIENCY
ORDINANCES**

WHEREAS, the Southern California Association of Governments (SCAG) is the Metropolitan Planning Organization (MPO) for six counties: Los Angeles, Orange, San Bernardino, Riverside, Ventura, and Imperial;

WHEREAS, the SCAG region is expected to experience substantial growth in population, housing, and employment in the coming decades;

WHEREAS, the population growth will require substantial construction of new buildings;

WHEREAS, buildings are large users of energy, consuming almost two-thirds of all electricity and one third of total energy, for lighting, heating, cooling, appliances, and other uses;

WHEREAS, the increased need for buildings will contribute to a substantial increase in energy demand in the SCAG region;

WHEREAS, the State of California mandates a basic level of energy efficiency in buildings under standards in Title 24, Part 6 of the California Code of Regulations;

WHEREAS, it is possible to reduce energy use in buildings beyond the mandates of Title 24 through improved building design, construction, and commissioning;

WHEREAS, reductions in building energy usage beyond the state standards will mitigate the regional environmental impacts of increased energy demand due to growth;

WHEREAS, the construction of buildings that go beyond the state standards can be accomplished for a small cost premium that will be paid back in energy cost savings, and sometimes can be accomplished for less cost than conventional construction;

WHEREAS, a model ordinance has been developed requiring new construction to exceed the Title 24 building energy efficiency standards;

NOW, THEREFORE, BE IT RESOLVED by the Regional Council of the Southern California Association of Governments, that SCAG does hereby encourage local jurisdictions in the SCAG region to adopt local ordinances, based on the model provided, requiring new construction to exceed the Title 24 building energy efficiency standards by 10-15%, depending on building type;

AND BE IT ALSO RESOLVED by the Regional Council of the Southern California Association of Governments, that SCAG does hereby request the California Energy Commission to make the state building energy efficiency standards uniformly more stringent for all jurisdictions.

APPROVED AND ADOPTED by the [vote] of the Regional Council of the Southern California Association of Governments at a regular meeting this 2nd day of September, 2004.

RON ROBERTS
President, SCAG
Councilmember, City of Temecula

Mark Pisano
Executive Director

Karen Tachiki
Chief Legal Counsel

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LEGAL NOTICE

This document was prepared as a result of work sponsored by the California Energy Commission through a federal grant agreement number DE-FG51-02R021400 with the U.S. Department of Energy. It does not necessarily represent the views of the Federal Government, the Energy Commission, its employees, or the State of California. The Federal Government, the Commission, the State of California, its employees, contractors, and subcontractors make no warranty, express or implied, and assume no legal liability for the information in this document; nor does any party represent that the use of this information will not infringe upon privately owned rights.

SUPPORTING GREATER BUILDING ENERGY EFFICIENCY IN THE SCAG REGION

1. Introduction

Southern California is facing the challenge of substantial population growth in the coming decades. The Southern California Association of Governments' (SCAG) adopted 2004 forecast projects a 38% increase in population and a 36% increase in employment between 2000 and 2030.¹ This growth will necessitate the development of new housing stock and accompanying new commercial and industrial growth. The number of buildings in the region can be expected to grow substantially, even if there is an increase in density. Since buildings are large energy users, the regional demand for energy can be expected likewise to grow.

At the national level, buildings have been estimated to "consume one-third of total U.S. energy, and almost two-thirds of electricity."² Buildings mainly consume energy – in the form of electricity and natural gas – for space heating and cooling, lighting, and water heating. SCAG has projected that growth in the region will lead to a similar percentage increase in residential energy demand, and has concluded that by 2030 there will be a significant cumulative regional increase in the amount of total energy consumed.³ While some of this demand growth could be avoided if more compact growth patterns are adopted, different land use patterns by themselves would likely reduce 2030 demand by less than 5 percent. If Southern California is to maintain environmental quality, it is imperative that new buildings be designed and built in a way that minimizes their demand for energy.

Since the 1970's, the state of California has maintained Building Energy Efficiency Standards, also known as Title 24, Part 6 Standards. The Standards have been updated periodically to reflect advances in research and technology. The most recent update is the 2005 state standards (so called because of their effective date), which were adopted by the Energy Commission in November 2003.

In the SCAG region, the City of Santa Monica has shown local leadership by adopting, in 2000, an ordinance that required new and renovated commercial and residential buildings to reduce energy consumption below the existing (1998)

¹ Southern California Association of Governments, *2004 Regional Transportation Plan: Final Draft*, (April 2004) 9, Executive Summary. The SCAG region includes Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties.

² John P. Holdren, et al, *Energy Efficiency. Federal Energy Research and Development for the Challenges of the 21st Century*. (1997)
<http://bcsia.ksg.harvard.edu/publication.cfm?program=STPP&ctype=testimony&item_id=20&gma=27>. Accessed May 2004.

³ Southern California Association of Governments, *Work done in support of 2004 Regional Transportation Plan Program Environmental Impact Report*, (April 2004). SCH #2003061075, Chapter 3.11, Energy.

Title 24 standards by 20-25%. The City of Irvine waives the building permit fee for builders who participate in their "IQ-Plus" program which calls for third party verified efficiency beyond the Standards requirements. Also, many Southern California cities encourage voluntary builder participation in the Community Energy Efficiency Program, which achieves Energy Star levels (15% lower energy consumption than required by the Standards) with third party verification to insure high quality control.

The purpose of this paper, which is funded by a grant from the U.S. Department of Energy's Rebuild America Program through the California Energy Commission (CEC), is to encourage greater building energy efficiency efforts across the SCAG region via adoption of an ordinance that would require new construction in the adopting jurisdiction to exceed the state standards.

Section 2 of this paper describes current national, state and local programs regarding building energy efficiency. Section 3 describes the expected costs and benefits of wider adoption of building energy efficiency in the SCAG region, based partly on existing research and partly on an analysis of the specific impacts in Southern California. Section 4 contains information and model language for implementing programs that exceed the Title 24 Standards.

2. Current Programs for Building Energy Efficiency

Interest in "green buildings" has been growing for some time, as the impacts of buildings on the environment have come into clearer focus and a broader concern has developed regarding environmental sustainability. "Green building" standards, of course, go well beyond energy efficiency, involving usage of renewable resources and reduced waste generation and water usage, among other things. Such standards can reduce local environmental impacts, regional air pollutant emissions, and even global greenhouse gas emissions.

This paper focuses only on the energy savings available through sustainable or "green" building standards. Notably, a 2003 study conducted for the California Sustainable Building Task Force found that the 20-year value of energy savings in green buildings was more than three times the value of emissions, water, and waste savings combined.⁴

The following sections summarize several important building energy efficiency standards and programs. The study mentioned in the previous paragraph contains a more comprehensive discussion of building energy efficiency programs at the international, national, and state levels.

⁴ G. Kats, et al., *The Costs and Financial Benefits of Green Buildings: A Report to California's Sustainable Building Task Force* (October 2003) p. ix, Table ES-1
<<http://www.usgbc.org/Docs/News477.pdf>>. Accessed April 2004.

Leadership in Environmental and Energy Design (LEED)

During the 1990's, the non-profit U.S. Green Building Council developed the LEED Green Building Rating System for commercial buildings. The system awards points for various design features of a building, resulting in a rating ranging from Certified at the low end, through Silver and Gold to Platinum at the high end. The points are awarded for six categories, such as Energy and Atmosphere, Water Efficiency, and Indoor Environmental Quality. The Energy criteria include the following prerequisites:

- a requirement for building commissioning (a process to verify that fundamental building systems are installed and operating as intended); and
- a minimum level of energy efficiency for the building and its systems, based on the more stringent of the local energy code or ASHRAE⁵ Standard 90.1-1999. (In California, the state building energy efficiency standards are more stringent.)

Project applicants can go on to rate additional LEED points by taking the following steps:

- reducing design energy cost beyond the minimum;
- supplying a portion of building energy from on-site renewable sources;
- conducting additional commissioning;
- measuring and verifying continuing system performance through installation of specific meters; and
- supplying half of the building's energy from renewable sources via contract.⁶

The LEED rating system has become one of the most popular and influential in the country, in part due to the participatory and professional nature of the Green Building Council.⁷ In April 2004, the program marked its fourth year and 100th certified building.⁸ According to the LEED web site, there are eleven LEED certified buildings in California.⁹

Table 1 lists several LEED certified and registered projects in the SCAG region. Registered projects are those intending to seek LEED certification.

⁵ American Society of Heating, Refrigerating, and Air-Conditioning Engineers, <<http://www.ashrae.org/>>.

⁶ All energy prerequisites and credits (additional steps) from *LEED Green Building Rating System For New Construction & Major Renovations*, version 2.1 (LEED-NC, November 2002,) 21-32

⁷ G. Kats et al. Op cit., p. 5.

⁸ U.S. Green Building Council press release 2004 April 14. USGBC Announces 100th LEED® Certified Project. <http://www.usgbc.org/News/pressreleases_details.asp?ID=739>. Accessed April 2004.

⁹ See https://www.usgbc.org/LEED/Project/project_list.asp, accessed April 2004.

Table 1. LEED Projects in the SCAG Region

Organization	Building	City	Year	Status
Southern California Gas Company	Energy Resource Center	Downey	1995	Version 1 Certified
Ford Motor Company	Premier Automotive Group North American Headquarters	Irvine	2001	Version 2 Certified
Audubon Society	Audubon Center at Debs Park	East Los Angeles	2003	Version 2 Platinum
City of Los Angeles	Lake View Terrace Library	Los Angeles	2003	Registered
City of Santa Monica	Santa Monica Main Library	Santa Monica	2003	Registered
Inland Empire Utilities Agency	Inland Empire Utilities Agency Headquarters	Chino	2003	Version 2 Platinum
Natural Resources Defense Council	Santa Monica Office	Santa Monica	2003	Registered (on target for Platinum)
Riverside Public Utilities	Casa Blanca Energy Demonstration & Customer Service Center	Riverside	2003	Registered (on target for Silver)
Toyota Motor Sales	South Campus Office Development	Torrance	2003	Version 2 Gold
Newmatic Engineering, Inc.	Newmatic Engineering Inc.	Irvine	2004	Registered
Orange County Integrated Waste Management Department	Bowerman Landfill Operations Building Addition	Irvine	2004	Registered
RAND	RAND Corporate Headquarters	Santa Monica	2004	Registered (on target for Silver)
State of California Department of Transportation	Caltrans District 7 Building Headquarters	Los Angeles	2004	Registered
Fullerton Arboretum Center	Fullerton Arboretum Interpretive Center	Fullerton	2005	Registered

However, these leaders are only the tip of the iceberg in this state, where there are more LEED projects than in any other. As of April 2004, the LEED list of registered projects included 204 building projects statewide.¹⁰ Nationally, three percent of all new construction projects have registered intent to seek LEED certification.¹¹

It is possible to reach LEED levels without doing more than just minimally complying with the Building Energy Efficiency Standards. However, projects can earn two additional LEED points by reducing energy usage 20% more than required by the Building Energy Efficiency Standards.

¹⁰ See https://www.usgbc.org/LEED/Project/project_list_registered.asp, accessed April 2004.

¹¹ U.S. Green Building Council, et al. Making The Business Case for High Performance Green Buildings, https://www.usgbc.org/Docs/Member_Resource_Docs/makingthebusinesscase.pdf, accessed April 2004.

Energy Star Homes

Energy Star describes itself as “a government-backed program helping businesses and individuals protect the environment through superior energy efficiency.”¹² The Energy Star Homes program results in energy-efficient residential construction through such measures as high-performance windows, tested and field-verified duct sealing, and properly sized and installed air conditioning, as well as higher-efficiency heating, air conditioning and water heating equipment.

California homes built to qualify for the Energy Star Homes program are 15% more efficient than the state Building Energy Efficiency Standards. Energy Star also operates programs that promote energy-efficient appliances. California’s investor-owned utilities offer financial assistance and marketing assistance to builders who build to California Energy Star Homes Program requirements, and also provide rebates on many types of Energy Star appliances.

California Building Energy Efficiency Standards

As mentioned above, California established statewide building energy efficiency standards in the mid-1970’s following legislative action. The legislation required the standards to be cost-effective, to be based on the building life-cycle, and to include both prescriptive and performance-based approaches.¹³ It is estimated that the standards will have saved Californians \$79 billion by 2013 (total of electricity and natural gas savings, including savings from appliance standards).¹⁴

The standards have been periodically updated as technology and design have evolved. Generally, the standards are updated every three years. As a result of AB 970, passed in Fall 2000 in response to the state’s electricity crisis, an emergency update of the Standards went into effect in June 2001. The Commission then initiated an immediate follow-on proceeding to consider and adopt updated Standards that could not be completed during the emergency proceeding. The 2005 Building Energy Efficiency Standards were adopted in November 2003, to take effect in October 2005.¹⁵

Title 24 of the California Code of Regulations comprises the state Building Standards Code. Part 6 of Title 24 is the California Energy Code, which includes

¹² See <http://www.energystar.gov/>.

¹³ California Energy Commission. Initial Study/Proposed Negative Declaration for the 2005 Building Energy Efficiency Standards for Residential and Nonresidential Buildings, Staff Report, September 2003, P400-03-018, p. 7.

¹⁴ California Energy Commission. *2003 Integrated Energy Policy Report*,. P100-03-019. Sacramento, California: California Energy Commission, December 2003, p. 10. <http://www.energy.ca.gov/reports/100-03-019F.PDF>

¹⁵ California Energy Commission, 2005 Energy Efficiency Building Standards Update, http://www.energy.ca.gov/2005_standards/background.html, accessed April 2004.

the building energy efficiency standards. The standards¹⁶ include provisions applicable to all buildings, residential and non-residential, that describe requirements for documentation and certificates that the building meets the standards. These provisions include mandatory requirements for efficiency and design of the following types of systems, equipment, and appliances:

- Air conditioning systems
- Heat pumps
- Water chillers
- Gas- and oil-fired boilers
- Cooling equipment
- Water heating systems and equipment
- Pool and spa heating systems and equipment
- Gas-fired equipment including furnaces and cooking appliances
- Windows and exterior doors
- Joints and other openings in the building structure (“envelope”)
- Insulation and cool roofs
- Lighting control devices.

The standards include additional mandatory requirements for space-conditioning (cooling and heating), water-heating, and indoor and outdoor lighting systems and equipment in non-residential, high-rise residential, and hotel or motel buildings. These standards cover ventilation, controls, pipe insulation, air distribution systems, and acceptance provisions. Mandatory requirements for low-rise residential buildings cover indoor and outdoor lighting, fireplaces, space cooling and heating equipment (including ducts and fans), and insulation of the structure, foundation, and water piping.

In addition to the mandatory requirements, the Standards call for further energy efficiency that can be provided through a choice between performance and prescriptive compliance approaches. (Separate sections apply to low-rise residential and to non-residential, high-rise residential, and hotel or motel buildings.) In buildings designed for mixed use (e.g., commercial and residential), each section must meet the standards applicable to that type of occupancy.¹⁷

In general, the performance approach provides for the calculation of an energy budget for each building, and allows flexibility in the design and selection of building systems and features to meet the budget. The energy budget addresses space-conditioning (cooling and heating), lighting, and water heating. Compliance with the budget is determined by the use of a CEC-approved computer software energy model. The alternative prescriptive standards require

¹⁶ California Energy Commission, 2005 Building Energy Efficiency Standards, Commission Proposed Standards, P400-03-001ET15, October 2003.

¹⁷ Ibid., Section 100(f).

demonstrating compliance with specific minimum efficiency for components of the building such as building envelope insulation R-values, fenestration (areas, U-factor and solar heat gain coefficients of windows and doors) and heating and cooling, water heating and lighting system design requirements. These requirements vary depending on which of the state's 16 climate zones the building is in.

The 2005 standards, which were adopted by the California Energy Commission in November 2003, and are expected to become effective statewide in October 2005, include the following major changes:

- Updated energy budgets that recognize the time dependence of energy usage by season and time of day.
- Incorporation of new federal appliance standards and other advances in technology emerging from the state's Public Interest Energy Research program.
- Incorporation of new state standards for outdoor lighting and for indoor and outdoor signs.
- Changes to improve the quality of construction and verification of reliable energy savings.

City of Santa Monica

State building energy efficiency standards provide that local jurisdictions may adopt local energy standards as long as they do not allow more building energy consumption than the state standards. Local standards may include early adoption of the state standards or requirements that buildings go beyond the standards, for example, by setting more stringent energy budgets.¹⁸

Local standards were adopted by Santa Monica in 2000, when the City Council adopted Ordinance Number 896 (see Appendix A). The ordinance applies to all new buildings, residential and commercial, except one- and two-family houses and qualified historic buildings. It also applies to existing buildings whose repair, alteration, or rehabilitation costs more than 50 percent of their replacement cost. The ordinance included required reduction factors for allowable energy budgets ranging from 20% to 25% below the then-effective 1998 state building energy standards, depending on the building use.¹⁹ Santa Monica's ordinance, like other green building schemes, also includes requirements for use of recycled construction materials.

¹⁸ Ibid., Section 10-106.

¹⁹ When the state standards were revised in 2001 following passage of AB 970, these percentage reductions were reduced to 10% to 15% since the state standards had become more stringent. City staff say that the percentages are likely to remain the same with the adoption of the 2005 state standards.

Santa Monica has also demonstrated leadership in the energy efficiency arena by incorporating solar panels into city parking structures, constructing a new Public Safety Facility that is estimated to have cost-effectively exceeded the Title 24 requirements by at least 40%,²⁰ and by working with partners to build Colorado Court, a “green” yet affordable housing complex.

City of Irvine

In 1996-97 the City of Irvine and the California Energy Commission partnered to develop a voluntary energy efficiency program. Irvine Quality Plus, or “IQ+,” is a program whereby residential builders are rebated city inspection fees and receive certificates, program marketing and other recognition when they meet certain maximum duct leakage levels and provide quality installation of wall, attic and underfloor insulation, with third-party verification.

The program has reduced duct leakage in some homes from as much as 70% to less than 6% (the average duct leakage in new homes statewide, where builders are not participating in a “tight” or “sealed” duct program, is approximately 22%). IQ+ was the prototype for the “sealed ducts” prescriptive requirement in the Title 24 energy standards. Irvine and the Commission are in the process of updating the IQ+ program protocols to exceed the 2005 Energy Efficiency Standards.

Community Energy Efficiency Program

In 1999, the Building Industry Institute (BII), the training and education arm of the California Building Industry Association, worked with an industry and government advisory group to develop the Community Energy Efficiency Program for local governments. The concept was for local governments to offer a range of incentives to motivate builders to improve the energy efficiency of new home construction in their community by 15% compared to Title 24.

Forty-five SCAG member cities and an additional seven non-member cities are currently participants in this program (see Appendix B); there are over seventy participants statewide. Incentives offered by participating jurisdictions include expedited review of building plans, permit fee reduction, and public recognition of the builder for their efforts.²¹ The hallmark of the program is third-party field verification of the quality of installation of the energy efficiency measures. By providing third-party field verification, the program is particularly helpful to local governments, who can be assured that the energy efficiency measures are installed properly without intensive site inspections by local building department staffs.

²⁰ California Energy Commission. July 2000. Draft, *Tier 1: A New Energy Standard for State Buildings, Consultant Report* (July 2000) P400-00-019, page 3.

²¹ See <http://www.thebii.org/lgp.asp>.

Collaborative for High Performance Schools

New school facilities are much in need throughout the state. This California non-profit group, known as CHPS, provides best practices and criteria for the construction of schools so as to create “environments that are not only energy efficient, but also healthy, comfortable, well lit and contain the amenities needed for a quality education.”²² CHPS schools provide more natural daylight and a healthier environment for students, teachers, and staff, and are beginning to reduce school district expenditures on energy, which according to CHPS exceed the combined costs of supplies and books.²³

California Governor's Sustainable Building Goal

On August 2, 2000, California Governor Gray Davis signed Executive Order D-16-00, “to site, design, deconstruct, construct, renovate, operate, and maintain state buildings that are models of energy, water, and materials efficiency; while providing healthy, productive and comfortable indoor environments and long-term benefits to Californians.”²⁴ New state buildings, such as the Department of General Services' East End Complex Block 225 in Sacramento, have been built to sustainable standards as a result. The California Integrated Waste Management Board maintains a web site that provides further information and resources for green building design and construction.²⁵

²² <<http://www.chps.net/overview/index.htm>>.

²³ Ibid.

²⁴ Executive Order D-16-00 by the Governor of the State of California. August 2, 2000.

²⁵ See <http://www.ciwmb.ca.gov/greenbuilding/Basics.htm>.

3. Costs and Benefits of Building Energy Efficiency Standards

One of the main considerations when undertaking improvements to building energy efficiency is, of course, cost. It may cost more to provide energy-efficient building components and systems, and first cost (i.e., design and construction cost) can be a hurdle even when the installed systems will save money over the life of the building. Energy efficiency measures can save first costs, for example, by reducing the need for over-sized air conditioners to keep buildings comfortable. (Undertaking a more comprehensive design approach to building sustainability can also save first costs through reuse of building materials and other means.)

In recent years, several studies have demonstrated that life-cycle savings clearly result from building energy efficiency efforts. Furthermore, these studies have clarified that the first cost penalty for green building measures is only about 2-3% at most, and there can be a first cost benefit. The following sections summarize the findings of these studies and make the case that wider adoption of building energy ordinances across the SCAG region will go far to alleviate the potential energy and environmental impacts of growth.

Building Level Savings

A study conducted for the City of Portland in 2000 analyzed three city buildings – an office building, a police precinct, and a fire station -- that were built in the 1990's without regard to green building standards. The study estimated both first cost and life cycle costs for the buildings as if they had been built according to LEED standards then under development, and compared these with actual costs. The analysis found that:

- The life cycle costs of the buildings would have been reduced by \$13,000 up to \$173,000 (for the largest building) if LEED-like standards had been followed.
- These estimates do not include probable employee productivity benefits resulting from better working conditions – lighting, ventilation, and so forth. The study estimated that life cycle cost savings would be 10 to 15 times the direct cost savings – ranging from \$101,900 up to over \$3 million for the largest building – if these benefits were considered.
- First costs were estimated to have been at most 2.2% higher if LEED standards had been applied; for one building, first costs would have been the same or even slightly lower (depending on whether first costs or life cycle costs are minimized).²⁶

A number of building projects in the SCAG region have pursued green designs, with the following results:

²⁶ XENERGY, Inc., and Sera Architects. *Green City Buildings: Applying the LEED™ Rating System*. (Prepared for Portland Energy Office: Portland, Oregon, June 18, 2000) p. S-2 – S-6.

- The Inland Empire Utilities Agency (IEUA) used comprehensive building design and tilt-up construction to reduce by one-third the cost of its new headquarters. Their two new buildings cost approximately \$10.1 million to build, but would have cost an estimated \$15.7 million if they were standard buildings built by conventional means. Furthermore, due to the energy-efficient design, "IEUA expects to save over \$200,000 per year in energy costs alone over the next ten years."²⁷
- The RAND Corporation analyzed its new headquarters building in Santa Monica before construction. While the new building might cost about 10% more than a conventional design, the company expects to use the building for far longer than the estimated 10- to 12-year payback period.²⁸
- Caltrans District 7 undertook a green building in response to the Governor's Executive Order of 2000 (see Section 2). The building designers anticipated a cost premium for the green building but expected payback within less than 10 years.²⁹
- Toyota Motor Sales created a new national headquarters building in Torrance with the goal of bringing all its personnel into one campus with minimum operating costs. The company saw an opportunity to build a sustainable building and made each decision about design features and systems based on business criteria. For example, the choice of cooling system was based on economics and reliability, and also happened to be environmentally preferable. Toyota used the state's 50% buydown incentive for self-generation to include photovoltaic panels on the roof with a payback of seven years for that system. In total, the efforts made to reduce costs and achieve sustainability earned the building a LEED Gold rating even though this was not the goal of the project.³⁰
- The Los Angeles Community College District is dedicating bond funding to the construction of 46 new LEED buildings across its system over the next several years. The target design level ranges from Certified to Silver at a cost premium estimated to be between 3% and 10%. Project personnel indicated that the Board took this decision in an environment where the cost premium for building green is clearly diminishing as more materials and systems become available and the market for them grows.³¹

A summary of green building benefits by the U.S. Green Building Council³² points out the following green building successes:

²⁷ <http://www.ieua.org/Agency/NewHQ.htm>, accessed April 2004.

²⁸ I. Katagiri, RAND Corporation, personal communication, May 2004.

²⁹ R. Makarem, AC Martin, personal communication, May 2004.

³⁰ M. Yamaguchi, Toyota, personal communication, May 2004.

³¹ A. Kovara, DMJM/JGM, and L. Eisenberg, Los Angeles Community College District, personal communication, May 2004.

³² U.S. Green Building Council, et al. *Making The Business Case for High Performance Green Buildings*, <https://www.usgbc.org/Docs/Member_Resource_Docs/makingthebusinesscase.pdf>. Accessed April 2004.

- “S.C. Johnson’s Worldwide Headquarters in Racine, WI, incorporates green features such as personal environmental systems, a restored natural site, and extensive daylighting, at a cost 10 to 15% *below* the U.S. average for comparable office and laboratory space.” (emphasis in original)
- “Almost an acre of energy-generating photovoltaic panels are in operation on the roof of Arden Realty’s 110,000-square-foot City Centre Office Building in Fountain Valley, CA.”
- “Energy Star-labeled office buildings generate utility bills 40% less than the average office building. For international developer and investor Hines, efficiencies gained from its Energy Star buildings are generating \$13 million in annual savings, based on a 2000 evaluation.”
- “Lockheed Martin’s trailblazing 600,000-square-foot facility in Sunnyvale, CA, housing 2,500 employees...reported a 15% drop in employee absenteeism – a savings that paid for the incremental costs of the company’s new high performance facility in the very first year alone.”
- “USAA Realty Company’s La Paz Office Plaza in Orange County, CA, experienced an \$0.80-per-square-foot-increase in market value – a \$1.5 million increase stemming from its investments in energy efficiency measures and lower-priced power procurements.”

Probably the most comprehensive and persuasive study of the value of green building savings is the 2003 report to California’s Sustainable Building Task Force. In the words of the report:

Integrating “sustainable” or “green” building practices into the construction of state buildings is a solid financial investment. In the most comprehensive analysis of the financial costs and benefits of green building conducted to date, this report finds that a minimal upfront investment of about two percent of construction costs typically yields life cycle saving of over ten times the initial investment. For example, an initial upfront investment of up to \$100,000 to incorporate green building features into a \$5 million project would result in a savings of at least \$1 million over the life of the building, assumed conservatively to be 20 years.³³

City- and State-Level Savings

At the city level, one report estimates that the green building ordinance adopted by the City and County of San Francisco would save \$22 million over ten years.³⁴ Before adopting its ordinance, Santa Monica hired a consultant to determine energy budget targets that would increase first costs no more than 3% and provide a five-year simple payback.³⁵

³³ G Kats, et al. Op. cit., p. v.

³⁴ California Integrated Waste Management Board. *The Economics of Green Buildings*. (June 2001), Task Three Report, p. 7. Prepared by Natural Strategies LLC.

³⁵ S. Munves, City of Santa Monica, personal communication, April 2004.

The Initial Study/Proposed Negative Declaration for the 2005 Building Energy Efficiency Standards prepared by the California Energy Commission found overall energy and environmental benefits from the standards update.³⁶ Annual cumulative statewide energy savings from implementation of the standards were estimated at over 600 GWh of electricity and 10 million therms of natural gas, along with a 181-MW drop in peak demand. Statewide total emissions reductions from application of the 2005 standards were estimated at 42 tons/year of NO_x, 3 tons/year of PM₁₀, and 8 tons/year of CO.³⁷

Potential Savings in the SCAG Region

The SCAG region will receive a share of the foregoing benefits from application of the state 2005 energy efficiency standards. For example, the SCAG region consumes about 45% of statewide total electricity,³⁸ and can be expected to enjoy a similar share of energy savings benefits and emissions benefits (with some differences depending on the location of power generation).

The region will receive further energy and emissions savings and benefits from local adoption of standards beyond Title 24. If this step were taken regionwide, CEC estimates show that the SCAG region could experience a further reduction in electricity demand amounting to about 199 GWh/year and for natural gas amounting to about 2.9 million therms per year, as well as a 50-MW reduction in peak power demand. While these savings are small in percentage terms, the related emissions savings could be significant. According to CEC estimates, with local adoption of ordinances going beyond Title 24, the region could experience a further decrease of 51 tons/year of NO_x, 7 tons/year of PM₁₀, and 25 tons/year of CO.³⁹ Emissions of the greenhouse gas CO₂ would also be reduced.

Compared to other types of emission reduction measures, energy efficiency measures can be a low-cost option – even no-cost, as in the case of behavior changes. Energy efficiency measures can be most cost-effective in combination with integrated building design efforts that allow synergies between systems and the structure itself.

³⁶ California Energy Commission—Staff Report, *Initial Study/Proposed Negative Declaration for the 2005 Building Energy Efficiency Standards for Residential and Non-residential Buildings*, (September 2003) P400-03-018, Section VII, Cumulative Effects.

³⁷ The report points out that some space cooling is natural-gas-fired, which may cause localized emissions in some air basins. However, the CEC estimates that the contribution from gas cooling would be no more than 0.001% over current emission levels, and would be “dwarfed” by the overall emission reductions from the standards. Individual air districts can also restrict the use of gas-fired cooling without conflicting with the state standards.

³⁸ Southern California Association of Governments. *Regional Comprehensive Plan and Guide, Energy Chapter Update 2002*, p. 11.

³⁹ R. Hudler, California Energy Commission, personal communication, May 2004. Unlike the statewide estimates for adoption of the 2005 standards, these estimates include emissions from natural gas combustion in power plants in addition to emissions from on-site usage.

4. Conclusion

At the Western Governors' Association Energy Summit meeting in April 2004, California Governor Arnold Schwarzenegger and New Mexico Governor Bill Richardson issued a bipartisan proposal to raise Western states' energy efficiency by 20 percent by 2020. The two governors' letter saw "a combined economic and environmental opportunity to develop alternative energy resources and energy efficiency to 'help stabilize fluctuating energy prices, create lasting jobs, promote public health and protect our environment.'"⁴⁰

Based on the demonstrated benefits of efforts to reduce building energy consumption, and given the growth expected in the SCAG region, local cities and counties may want to pursue more aggressive "beyond-the-Standards" energy consumption targets.

Locally Adopted Energy Standards

As mentioned in Section 2, the state Building Energy Efficiency Standards provide that local jurisdictions may adopt building energy standards as long as the resulting buildings will not use more energy than under the state standards. To ensure this, a city or county in the SCAG region may choose to adopt an ordinance requiring new or modified construction to go beyond the state standards by a certain percentage. To assist local jurisdictions in this effort, a model ordinance is provided in Appendix C which is based on the Santa Monica ordinance of 2000. Any city or county could modify the target percentages based on local needs and climate conditions.

A jurisdiction adopting local standards must submit four copies of the following documentation to the CEC:⁴¹

- a. The proposed local energy standards (requiring early adoption).
- b. A study and supporting analysis showing how energy savings were determined.
- c. A statement that the local standards will require buildings to be designed to consume no more energy than permitted by Title 24, Part 6.
- d. The basis of the determination that the standards are cost-effective.

The CEC must approve the local ordinance before it is adopted. Following submission of these materials, a jurisdiction should expect about two months for CEC approval. Once this is received, local adoption may proceed.

⁴⁰ California Energy Markets. *Working Energy Development for the Greater West*, (April 23, 2004) 4, No. 768.

⁴¹ California Energy Commission, 2005 Building Energy Efficiency Standards, Commission Proposed Standards, P400-03-001ET15, October 2003. Section 10-106(b), based on Section 25402.1, Public Resources Code.

REFERENCES

- California Energy Commission. July 2000. Tier 1: A New Energy Standard for State Buildings, Consultant Report (Draft), P400-00-019.
- California Energy Commission. September 2003. Initial Study/Proposed Negative Declaration for the 2005 Building Energy Efficiency Standards for Residential and Nonresidential Buildings, Staff Report, P400-03-018.
- California Energy Commission. October 2003. 2005 Building Energy Efficiency Standards, Commission Proposed Standards, P400-03-001ET15.
- California Energy Markets. April 23, 2004. No. 768, Working Energy Development for the Greater West.
- California Integrated Waste Management Board. June 2001. The Economics of Green Buildings, Task Three Report. Prepared by Natural Strategies LLC.
- Holdren, John P., et al. 1997. Energy Efficiency. Federal Energy Research and Development for the Challenges of the 21st Century. <http://bcsia.ksg.harvard.edu/BCSIA_content/documents/pcast97_ch3.pdf>.
- Kats, G., et al. October 2003. The Costs and Financial Benefits of Green Buildings: A Report to California's Sustainable Building Task Force [p. ix, Table ES-1] <<http://www.usgbc.org/Docs/News477.pdf>>.
- Southern California Association of Governments. 2002. Regional Comprehensive Plan and Guide, Energy Chapter Update 2002.
- Southern California Association of Governments. March 2004. 2004 Regional Transportation Plan.
- Southern California Association of Governments. April 2004. 2004 Regional Transportation Plan Program Environmental Impact Report. SCH #2003061075.
- U.S. Green Building Council, et al. Making The Business Case for High Performance Green Buildings, <https://www.usgbc.org/Docs/Member_Resource_Docs/makingthebusinesscase.pdf>.
- U.S. Green Building Council. November 2002. LEED Green Building Rating System for New Construction & Major Renovations (LEED-NC), Version 2.1.
- U.S. Green Building Council press release. April 14, 2004. USGBC Announces 100th LEED® Certified Project. <http://www.usgbc.org/News/pressreleases_details.asp?ID=739>.
- XENERGY, Inc., and Sera Architects. June 18, 2000. Green City Buildings: Applying the LEED™ Rating System. Prepared for Portland Energy Office, Portland, OR.

APPENDIX A

**Santa Monica Ordinance No. 896 of December 19, 2000
(6 pages)**

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City Council Meeting 12-19-2000 Santa Monica, California

ORDINANCE NUMBER 896 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL

OF THE CITY OF SANTA MONICA

ADDING CHAPTER 8.108 TO THE SANTA MONICA MUNICIPAL CODE

WHICH ADOPTS SANTA MONICA AMENDMENTS

TO THE CALIFORNIA BUILDING STANDARDS CODE

RELATING TO GREEN BUILDING STANDARDS

WHEREAS, on June 8, 1999, the City Council adopted Ordinance Number 1945 (CCS), which adopts the California Building Standards Code, Santa Monica amendments to the California Building Standards Code; and other technical codes; and

WHEREAS, Health and Safety Code Sections 18938 and 17958 provides that the California Building Standards Code establishes building standards for all occupancies throughout the State; and

WHEREAS, Health and Safety Code Section 18941.5 provides that the City may establish more restrictive building standards if they are reasonably necessary due to local climatic, geological or topographical conditions; and

WHEREAS, the City Council has considered the 1998 edition of the California Building Standards Code, which incorporates by reference the 1996-1997 editions of the Technical Codes, and all of the referenced standards, tables, matrices and appendices of each of these codes therein; and

WHEREAS, based upon the findings contained in the Resolution adopted concurrently with this Ordinance, the City Council has found that certain modifications and additions to the California Building Standards Code are reasonably necessary based upon local climatic, topographical and geological conditions; and

WHEREAS, Public Resource Code Section 25402.1(h)(2) says that a local enforcement agency may adopt more restrictive energy standards when they are cost-effective and approved by the Energy Commission; and

WHEREAS, the City hired a private consultant to conduct a cost study of the proposed changes and said study demonstrated the cost effectiveness of these changes; and

WHEREAS, the State Energy Commission approved the proposed standards on September 20, 2000;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 8.108 is hereby added to the Santa Monica Municipal Code to read as follows:

CHAPTER 8.108 GREEN BUILDING STANDARDS

8.108.010 Purpose.

The green building design and construction standards established in this chapter are intended to reduce human exposure to noxious materials; conserve non-renewable energy and scarce materials; minimize the ecological impact of energy and materials used; use renewable energy and materials that are sustainably harvested; and protect and restore local air, water, flora and fauna. These standards will help protect the health of building occupants; improve employee productivity; use energy, water and materials more efficiently; incorporate recycled-content building materials; and increase the durability, ease of maintenance, and economy of building operations.

8.108.020 Scope.

The provisions of this chapter shall apply to all new buildings, and existing buildings whose repair, alteration or rehabilitation costs exceed 50 percent of their replacement cost as determined by Section 8.84.040 except (a) one-and-two-family dwellings and their accessory structures and (b) qualified historic buildings as defined in the State Historic Building Code (Title 24, Part 8).

8.108.030 Compliance Methods.

(a) Except as provided in subsections (b) and (c) of this Section, the envelope, space-conditioning, lighting and service water-heating systems of all buildings subject to the provisions of this chapter shall be designed, constructed and installed to use no more source energy from non-renewable sources than the allowable energy budget calculated in accordance with the performance approach set forth in Chapter 8.36 and reduced in accordance with Section 8.108.040.

(b) Multi-family residential buildings that are three stories or less in height may use the prescriptive approach set forth in Chapter 8.36 for the envelope, space-conditioning, lighting and service water-heating systems if these buildings also meet the following requirements:

- (1) all windows and glass patio doors are equipped with double-glazed, low-emissivity glazing, with center-of-glass U-value not more than 0.32 Btu/(hr.sq.ft. deg. F.), and Solar Heat Gain Coefficient not more than 0.37;
- (2) fixed lighting fixtures installed within the dwelling units have a combined average efficacy of not less than 40 lumens per watt;

- (3) water heaters have a minimum energy factor of 0.60; and
- (4) space cooling appliances (if installed) have a Seasonal Energy Efficiency Ratio (SEER) of not less than 12.
- (c) When building designs, materials or devices cannot be adequately modeled by the performance approach, alternate calculation methods may be used when approved by the California Energy Commission pursuant to their administrative regulations for exceptional methods.

8.108.040 Reductions in Allowable Energy Budgets.

Allowable energy budgets shall be the allowable energy budget determined in accordance with Chapter 8.36 and reduced by the following factors for the occupancy types shown in Table 8.108-A. Required reduction factors for occupancies not shown in Table 108-A shall be determined by the Building Officer for the most similar energy consuming use.

Table 8.108-A

Required Reduction Factors for Allowable Energy Budgets

Multi-family residences	20%
Hotels and motels	25%
Commercial and institutional offices	25%
Light industrial	25%
Retail	20%

When determining compliance with the percentage reduction, alternate calculation methods that consider energy savings in addition to those recognized in Chapter 8.36 may be used when approved by the Building Officer. These savings may include, but are not limited to, efficiency of fan systems with motors less than twenty-five horsepower and garage ventilation controls.

8.108.050 Use of Recycled Construction Materials.

All new buildings subject to the provisions of the chapter shall be built with a minimum of four major construction materials that have a post-consumer recycled content that meets the Environmental Protection Agency (EPA) recycled content guidelines as set forth in the Comprehensive Guideline for Procurement of Products Containing Recovered Materials (CPG) and the Recovered Materials Advisory Notices (40 CFR Part 247), or any successor publication. Building and Safety Division shall maintain copies of the most recent guidelines issued by the EPA. Major construction materials are those materials that serve a structural, partitioning or finishing function throughout the building or cover more than one-half of the floor, roof or wall surfaces.

8.108.060 Additional Mandatory Features for All Buildings

(a) Solar Water Heating. Solar collectors shall be the primary source to heat swimming pool water and to preheat industrial process water, including but not limited to, car washes and laundries.

(b) Pipe Insulation. All hot water distribution and recirculating system piping shall be thermally insulated from the heater to the end-use fixtures. Pipe insulation shall have R-value equal to R-4 for piping 2 inches or less in diameter and R-6 for larger piping. The R-value specified shall not be exceeded.

(c) Heat Traps. Heat traps shall be provided on the inlets and outlets of non-circulating hot water heaters and tanks to reduce the buoyancy-induced flow of hot water through the piping. Bent piping for heat traps shall have a minimum external diameter of twelve inches.

SECTION 2. Section 8.36.010 of the Santa Monica Municipal Code is amended to read as follows:

8.36.010. Adoption.

That certain document entitled "California Energy Code, 1998 Edition," which is Part 6 of Title 24 of the California Code of Regulations, as published by the California Building Standards Commission and the International Conference of Building Officials is hereby adopted as the Energy Code of Santa Monica, subject to the provisions of Chapter 8.108 Green Building Standards.

SECTION 3. Any provision of the Santa Monica Municipal Code or appendices thereto, inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any Section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every Section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause this ordinance, or a summary thereof to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall be effective 30 days after its adoption.

APPROVED AS TO FORM:

MARSHA JONES MOUTRIE

City Attorney

APPENDIX B

List Of SCAG Region Participating Jurisdictions In CEEP (1 page)

Southern California Local Government Community Energy Efficiency Program Participants

SCAG Members

Apple Valley
Arcadia
Beaumont
Brea
Camarillo
Cathedral City
Chino
Chino Hills
Corona
Costa Mesa
Desert Hot Springs
Fontana
Garden Grove
Hemet
Highland
Huntington Beach
Indian Wells
Lake Elsinore
Lancaster
Loma Linda
Monterey Park
Moorpark
Moreno Valley
Murrieta
Norco
Ontario
Orange County
Palm Desert
Palm Springs
Placentia
Rancho Cucamonga
Rancho Mirage
Redlands
Riverside County
San Bernardino
San Bernardino County
Santa Clarita
Simi Valley
Temecula
Thousand Oaks
Tustin
Upland
Ventura
Victorville
Yorba Linda

SCAG Non-Members

Banning
Fullerton*
Hesperia
Mission Viejo
Orange
San Jacinto
Westminster

* As of June 2004, the City of Fullerton had voted to join SCAG.

Source: *The Building Industry Institute web site, <http://www.thebii.org/lgp.asp>, accessed April 2004.*

APPENDIX C

Model Ordinance for Exceeding State Building Energy Efficiency Standards (3 pages)

MODEL LOCAL BUILDING ENERGY EFFICIENCY ORDINANCE

ORDINANCE NUMBER:

AN ORDINANCE OF THE CITY COUNCIL OF _____

WHEREAS, on [date], the _____ City Council adopted Ordinance Number _____, which adopts the California Building Standards Code, [city] amendments to the California Building Standards Code, and other technical codes; and

WHEREAS, Health and Safety Code Sections 18938 and 17958 provides that the California Building Standards Code establishes building standards for all occupancies throughout the State; and

WHEREAS, Health and Safety Code Section 18941.5 provides that the City may establish more restrictive building standards if they are reasonably necessary due to local climatic, geological or topographical conditions; and

WHEREAS, the City Council has considered the [current year] edition of the California Building Standards Code, and all of the referenced standards, tables, matrices and appendices of each of these codes therein; and

WHEREAS, based upon the findings contained in the Resolution adopted concurrently with this Ordinance, the City Council has found that certain modifications and additions to the California Building Standards Code are reasonably necessary based upon local climatic, topographical and geological conditions; and

WHEREAS, Public Resource Code Section 25402.1(h)(2) says that a local enforcement agency may adopt more restrictive energy standards when they are cost-effective and approved by the Energy Commission; and

WHEREAS, the State Energy Commission approved the proposed standards on [date];

NOW, THEREFORE, THE CITY COUNCIL OF [City] DOES ORDAIN AS FOLLOWS:

I. Chapter #_____ is hereby added to the [City] Municipal Code to read as follows:

GREEN BUILDING STANDARDS

___-1. Purpose.

The green building design and construction standards established in this chapter are intended to reduce human exposure to noxious materials; conserve non-renewable energy and scarce materials; minimize the ecological impact of energy and materials used; use renewable energy and materials that are sustainably harvested; and protect and restore local air, water, flora and fauna. These standards will help protect the health of building occupants; improve employee productivity; use energy, water and materials more efficiently; incorporate recycled-content building materials; and increase the durability, ease of maintenance, and economy of building operations.

___-2. Scope.

The provisions of this chapter shall apply to all new buildings, and existing buildings whose repair, alteration or rehabilitation costs exceed 50 percent of their replacement cost as determined by Section ___-4 except (a) one-and-two-family dwellings and their accessory

structures and (b) qualified historic buildings as defined in the State Historic Building Code (Title 24, Part 8).

___-3. Compliance Methods.

(a) Except as provided in subsections (b) and (c) of this Section, the envelope, space-conditioning, lighting and service water-heating systems of all buildings subject to the provisions of this chapter shall be designed, constructed and installed to use no more source energy from non-renewable sources than the allowable energy budget calculated in accordance with the performance approach set forth in [City] Energy Code and reduced in accordance with Section ___-4.

(b) Multi-family residential buildings that are three stories or less in height may use the prescriptive approach, set forth in [City] Energy Code for the envelope, space-conditioning, lighting and service water-heating systems if these buildings also meet the following requirements:

- (1) All windows and glass patio doors are equipped with double-glazed, low-emissivity glazing, with center-of-glass U-value not more than 0.32 Btu/(hr.sq.ft. deg. F.), and Solar Heat Gain Coefficient not more than 0.37;
- (2) Fixed lighting fixtures installed within the dwelling units have a combined average efficacy of not less than 40 lumens per watt;
- (3) Water heaters have a minimum energy factor of 0.60; and
- (4) Space cooling appliances (if installed) have a Seasonal Energy Efficiency Ratio (SEER) of not less than 12.

(c) When building designs, materials or devices cannot be adequately modeled by the performance approach, alternate calculation methods may be used when approved by the California Energy Commission pursuant to their administrative regulations for exceptional methods.

___-4. Reductions in Allowable Energy Budgets.

Allowable energy budgets shall be the allowable energy budget determined in accordance with [City] Energy Code and reduced by the following factors for the occupancy types shown in Table A. Required reduction factors for occupancies not shown in Table A shall be determined by the Building Officer for the most similar energy consuming use.

Table A
Required Reduction Factors for Allowable Energy Budgets

Multi-family residences	10%
Hotels and motels	15%
Commercial and institutional offices	15%
Light industrial	15%
Retail	10%

When determining compliance with the percentage reduction, alternate calculation methods that consider energy savings in addition to those recognized in [City] Energy Code may be used when approved by the Building Officer. These savings may include, but are not limited to, efficiency of fan systems with motors less than twenty-five horsepower and garage ventilation controls.

___-5. Additional Mandatory Features for All Buildings

(a) Solar Water Heating. Solar collectors shall be the primary source to heat swimming pool water and to preheat industrial process water, including but not limited to, car washes and laundries.

(b) Pipe Insulation. All hot water distribution and re-circulating system piping shall be thermally insulated from the heater to the end-use fixtures. Pipe insulation shall have R-value equal to R-4 for piping 2 inches or less in diameter and R-6 for larger piping. The R-value specified shall not be exceeded.

(c) Heat Traps. Heat traps shall be provided on the inlets and outlets of non-circulating hot water heaters and tanks to reduce the buoyancy-induced flow of hot water through the piping. Bent piping for heat traps shall have a minimum external diameter of twelve inches.

- II. [City] Energy Code is amended to read as follows:

Adoption.

That certain document entitled "California Energy Code, [current year] Edition," which is Part 6 of Title 24 of the California Code of Regulations, as published by the California Building Standards Commission and the International Conference of Building Officials is hereby adopted as the Energy Code of [City], *subject to the provisions of Chapter _____, Green Building Standards.*

- III. Any provision or appendices thereto, inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.
- IV. If any Section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every Section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.
- V. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause this ordinance, or a summary thereof to be published once in the official newspaper within [#] days after its adoption. This Ordinance shall be effective [#] days after its adoption.

REPORT

DATE: Regional Council
TO: Daniel Griset, Senior Planner, (213) 236-1895, griset@scag.ca.gov
FROM: September 2, 2004
SUBJECT: Bay-Delta Improvements Package

EXECUTIVE DIRECTOR'S APPROVAL:

RECOMMENDED ACTION:

The Energy and Environment Committee recommends that the Regional Council approve Resolution #04-454-1 in support of the CALFED Bay-Delta Improvements Package. The draft resolution urges all participating agencies, including the federal government, to authorize and fund the measures required to maintain operational balance in the CALFED Bay-Delta Program.

BACKGROUND:

The CALFED Bay-Delta Program began in 1995 to deal with a wide array of water issues and unfavorable trends affecting California's water future. The Bay-Delta area is the largest estuary in North America and is the heart of California's statewide water system. The Delta provides drinking water for two-thirds of the state's population and irrigation water to more than seven million acres of farmland. In the years leading up to the start of the Program the Delta was adversely affected by on-going deadlocks between competing water interests. These deadlocks exacerbated problems that took on statewide significance: fish species were disappearing, water quality was declining and water supplies were increasingly unreliable.

The Program's study process started in 1995 represented a new approach in which state and federal agencies, along with other key stakeholders, began a collaborative process to find and implement solutions for the Delta. In 2000 a comprehensive, 30-year Plan was completed for restoring the health of the Bay-Delta ecosystem and improving the reliability and quality of the state's water supply. The Plan, finalized in the September 2000 CALFED Record of Decision (ROD), identified a number of projects including ecosystem restoration, surface and groundwater storage, and water quality improvements. With extensive input from stakeholders and the public, the ROD reflected a commitment to move ahead simultaneously on environmental, water supply and water quality objectives.

Since the release of the ROD, CALFED has begun implementation of local and regional projects at a cost of more than \$2 billion. These projects have been implemented under the guidance of the CALFED mandates to improve water supplies and water quality in California and to improve the ecological health of the Bay-Delta and its levee system.



The first seven years of the Program, known as "Stage 1", had specific milestones for progress in ecosystem restoration, water quality, water supply and levee integrity. Ecosystem restoration has seen substantial progress with the investment of nearly \$700 million in Delta projects including efforts to improve fish and other wildlife populations. Certain regional water recycling and groundwater management efforts have made some progress as well. Other Stage 1 programs such as conveyance, water quality and surface storage have fallen behind Stage 1 goals, however.

These delays that created a troubling imbalance in Program implementation led to a series of stakeholder meetings in the summer of 2003 at Napa in which a "Delta Improvements Package" was formulated. This Package of programs and projects is a 2004 priority of CALFED and the California Bay-Delta Authority and includes:

1. Improving water supply reliability through a conveyance (water movement) program;
2. Restoring ecosystems through a long-term environmental water account; and
3. Enhancing water quality through various Delta and South Delta protection measures.

Together, the package elements would provide benefits for local Delta users and the broader community of statewide water users. As such it is the first major implementation package of statewide significance within the CALFED Program, moving a series of statewide water and environmental projects from planning to actual implementation.

Improving Water Supply Reliability. One of the key programs within CALFED is improved conveyance of water through the Delta. Water travels through the state's largest watershed, providing water for much of California, yet the Delta's conveyance ability is limited and outdated. The proposed Package calls for a conveyance program that entails three major changes to the conveyance system as follows: a) an increase State Water Project pumping through the Delta from the current level of 6,700 cfs (cubic feet per second) to 8,500 cfs; b) construction of a State Water Project/Central Valley Project Intertie; and c) implementation of a state/federal project integration plan.

The SWP/CVP Intertie: The State Water Project (SWP) and the federal Central Valley Project (CVP) are separate water supply systems that essentially run parallel to each other up and down the state, and are operated by different government agencies, one state and the other federal. The systems are vastly different from each other in their operating plans and regulatory paths. The SWP is storage poor and conveyance rich, while the CVP has plenty of storage capacity, but lacks the ability to move its water effectively. Further, the lack of coordination and cooperation between the state and federal projects has stalled progress in implementing CALFED water supply improvements. It's significant, then, that these agencies have agreed to support the SWP Aqueduct and CVP Delta-Mendota Canal Intertie (SWP/CVP Intertie). The Intertie is a short canal that will be built south of the Delta, where the SWP and CVP canals are in close proximity. The Intertie will allow the SWP and CVP to share water, so that both systems will work more effectively to deliver water to various areas of the state for a variety of uses at different times.

The SWP/CVP Integration Plan: The historic lack of coordination between the SWP and the CVP led to the negotiation between state and federal officials, along with other CALFED stakeholders, to negotiate an agreement at the meetings in Napa. Called the "Napa Proposal," the proposed SWP/CVP Integration Plan lays out the parameters to better operate and integrate the two projects, seeking to increase efficiencies, storage opportunities and water supply. The Napa Proposal provides a plan that

REPORT

proposes to moderately increase water supplies for both projects. By better managing risk, it will allow higher water allocations earlier in the year, increasing certainty for both SWP and CVP contractors.

Restoring Ecosystems. One of the essential goals of the CALFED ROD is a resolution of the conflict between improving water supply reliability and providing environmental protections for fish and other wildlife living in the Delta ecosystem. CALFED established a new national model for conflict resolution with the creation of the innovative Environmental Water Account (EWA), which can purchase water and supply it to the conveyance system when fish protection required system pumps to be shut down. The pilot, four-year EWA, has been a success but is currently scheduled to expire in 2004. The Delta Improvements Package will establish a long-term EWA that is to be proposed by federal and state agencies for public comment in 2004.

Enhancing Water Quality. Accompanying protections for Delta fish and wildlife, the proposed Delta Improvements Package also includes protections for local in-Delta and South Delta water users who would be impacted by the conveyance of more water through the Delta. These impacts would involve maintenance of water quality and water levels in the Delta. Accordingly, a series of regional meetings have been held with local Delta interests and Delta exporters to identify and agree upon a series of improvements and protective measures, including water quality and water level standards and the management of agricultural drainage. These measures are to be considered by state and federal agencies and, with approval, will be included in the list of conveyance projects as a part of the Delta Improvements Package.

The core principle of the ROD that created the common ground for stakeholder commitments to the Program is that all CALFED components are interrelated and interdependent. This involves a linkage between all projects in the Program. Investments and implementation in one Program area must be tied politically and programmatically to investments and implementation in other areas of the Program. This orientation to balance between the various priorities also emphasizes the role for the use of sound scientific investigations and research.

The governance of the CALFED program became formalized in January 2003 with the creation of a new state agency called the California Bay-Delta Authority. This Authority provides a permanent governance structure for the collaborative state/federal effort. The Authority will sunset on January 1, 2006, unless federal legislation has been enacted authorizing the participation of appropriate federal agencies in the CALFED Program.

FISCAL IMPACT: SCAG's support of the Bay-Delta Improvements Package will have no fiscal impact on SCAG. The staff expense related to work on these water issues is supported by funding from work element 05-320.

DOCS #101877v1

RESOLUTION No. 04-454-1

**A RESOLUTION OF
THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS
IN SUPPORT OF
CALFED BAY-DELTA IMPROVEMENTS**

WHEREAS, the Southern California Association of Governments (SCAG) is the Metropolitan Planning Organization (MPO) for six counties: Los Angeles, Orange, San Bernardino, Riverside, Ventura, and Imperial;

WHEREAS, the SCAG region is expected to experience substantial growth in population, housing, and employment in the coming decades;

WHEREAS, this growth will require a reliable supply of water to augment local water supplies and on-going conservation efforts;

WHEREAS, a wide collaboration of interests – federal and state agencies, water agencies, business groups, environmental organizations, labor, agricultural industry and local communities – have proposed a comprehensive, long-term plan for improved water resources management in California's Bay-Delta;

WHEREAS, the CalFed Record of Decision was published in August 2000, laying out a blueprint for the successful implementation of water supply, water quality, ecosystem restoration and levee integrity programs; and

WHEREAS, during its first three years, the CalFed program has invested nearly \$2 billion to meet its program goals, scattered over hundreds of local and regional projects throughout the state; and

WHEREAS, the Delta Improvements Package is the first major implementation package of statewide significance within the CalFed Program, moving a series of statewide projects from planning to actual implementation; and

WHEREAS, implementation of these program components will help ensure CalFed's achievement of the Program milestones established for Stage 1 (years 1-7); and

WHEREAS, in order to ensure ongoing, balanced implementation of the CalFed Record of Decision, improvements in all CalFed components [water quality, ecosystem restoration, water supply reliability and levee integrity] need to advance, tasks requiring political will and critical funding; and

WHEREAS, efforts such as the Delta Improvements Package will assist in the balanced implementation of designated CalFed improvements and will improve water supply reliability, protect water quality and restore the impaired estuary ecosystem;

NOW, THEREFORE, BE IT RESOLVED by the Regional Council of the Southern California Association of Governments, that SCAG does hereby urge all CalFed participating agencies, including the federal government, to authorize and fund the measures required to maintain operational balance in the CALFED Bay-Delta Program; and

BE IT FURTHER RESOLVED that SCAG urges all CalFed agencies to establish the kinds of cooperation and coordination between State Water Project and Central Valley Project operations that will assure improved water supply and quality and will protect and enhance the Bay-Delta ecosystem.

APPROVED AND ADOPTED by the [vote] of the Regional Council of the Southern California Association of Governments at a regular meeting this 2nd day of September, 2004.

RON ROBERTS
President, SCAG
Councilmember, City of Temecula

Mark Pisano
Executive Director

Karen Tachiki
Chief Legal Counsel

REPORT

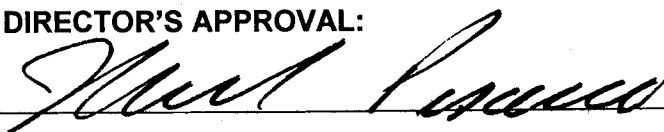
TO: Regional Council

FROM: Community, Economic and Human Development Committee (CEHD)
Jacob Lieb, Acting Lead Regional Planner, (213) 236-1921, lieb@scag.ca.gov

SUBJECT: Policy Paper, "Promoting Regional and State Policy Objectives Through Growth and Development Practice," July 2004

DATE: September 2, 2004

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION:

Approve policy paper - "Promoting Regional and State Policy Objectives Through Growth and Development Practice," July 2004.

BACKGROUND:

The Governor has directed his cabinet to develop a growth policy for the State. The effort is chaired by Department of Business, Transportation and Housing Secretary Sunne Wright McPeak. The focus of these discussions is better coordination between growth, transportation, housing, and development planning. In order to contribute to these discussions, staff has prepared the attached policy paper which outlines steps that the State might take to support the development policies inherent in the recently adopted Compass Growth Vision and 2004 RTP. The positions promoted by the paper include protecting funding for projects in the RTP, aligning available housing subsidy funds with regional plan priorities, acknowledging and rewarding local performance, and coordinating planning horizons for housing and transportation. The CEHD Committee, at its August 5 meeting, unanimously recommended that the Regional Council approve this policy paper.

ATTACHMENT:

Housing Policy Paper

FISCAL IMPACT:

Pursuing policy discussions and State legislation, as proposed in the policy paper recommended for approval, is included in the SCAG Overall Work Program for Fiscal Year 2004-2005.

Docs100881



SOUTHERN CALIFORNIA
ASSOCIATION of GOVERNMENTS

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SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS
PROMOTING REGIONAL AND STATE POLICY OBJECTIVES THROUGH
GROWTH AND DEVELOPMENT PRACTICE
Concept Paper

In recent months, there has been increased discussion at the State level regarding better coordination between transportation and land use policy. The intent of this paper is to delineate ways in which current planning efforts by the Southern California Association of Governments (SCAG) might assist in forming the basis for advancing specific policy objectives of the State of California's Department of Business, Transportation, and Housing. In pursuing such an approach, the State, SCAG, and other Councils of Governments (COG) can:

- a) achieve a higher level of transportation and air quality performance
- b) improve housing availability and affordability
- c) provide for performance and accountability measurements for local governments and others.

In turn, this paper will describe how the State of California might partner with SCAG and other COGs in supporting these goals.

BACKGROUND

SCAG has recently completed work on the 2004 Regional Transportation Plan (RTP) update. This plan features an unprecedented focus on the interplay between transportation and land use. Through a participatory, scenario-based planning process, SCAG devised a set of land use measures and principles that guide the future of development in Southern California and achieve dramatic transportation performance results. This effort, known as Southern California COMPASS, took over three years, involved the input of thousands of Southern California residents, and was incorporated into SCAG planning with the support SCAG's 74 member Regional Council composed of local elected officials.

The land use measures feature the concentration of new development along existing and planned transportation corridors and in regional and sub-regional centers including airports. Further, the plan calls for a substantial amount of in-fill development in currently urbanized areas. This allocation of growth is calibrated to a fine scale of geography in order to account for accessibility and efficiency of individual transportation facilities. Conversely, the land use measures do not broadly reallocate growth around the region. Each county in Southern California, and most cities, will absorb a similar amount of total growth as they would in a "no plan" scenario. Such growth, under the plan, would simply be arranged better to meet regional transportation and livability objectives. SCAG estimates that the changes needed in local land use policy and practice will affect 2% of the land mass of the region. As such, the region has latitude to preserve variation in

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development types around the region while we build more urban places in select locales.

The RTP, in its current incarnation, consists of specified transportation projects, a broader, longer-term program of implementation measures, and assumptions regarding future conditions. In sum, the plan identifies the needed conditions for the physical and systemic well-being in the region.

SUPPORT OF OBJECTIVES

The emerging regional growth vision and the current RTP developed by SCAG encompasses objectives identified by the State, in that it;

a. relies on development policy and practice to achieve performance

In developing land use measures for the RTP, SCAG isolated the results on land use in its transportation model. These results are dramatic, even while the region absorbs a population growth of 6 million. With the inclusion of land use measures, there will be a 40% higher transit mode split in 2030, 35% less VMT and 8% less delay compared with the other elements of the plan minus land use. The 2004 RTP creates efficiencies within the region's transportation system and urban form by focusing development in coordination with infrastructure. By achieving these results through policy measures, the region is allowing limited State and Federal funds for infrastructure to go further.

b. assumes adequate levels of housing production

By implementing the current RTP, and pursuing the land use and other measures set forth within the plan which remove housing production impediments, the Southern California region will have largely alleviated its chronic housing shortages. Forecasting for the plan assumes a higher level of housing performance compared to population than either in earlier plans or compared to observed trend. In part, this is achieved by giving attention to economic development in the region. The plan focuses investment on key economic drivers in the region, notably in goods movement and logistics. This allows for higher household incomes, and a more functional housing market. Further, the plan delineates clear expectations for local development policy and practice. In sum, the plan calls for 400,000 housing units beyond the "no-project" scenario, or a 20% increase.

c. improves housing affordability

As discussed above, full implementation of the RTP would result in a marked increase in the supply of housing. This alone would have a positive impact on affordability by offsetting pricing pressures from chronically unmet demand.

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PROMOTING REGIONAL AND STATE POLICY OBJECTIVES THROUGH GROWTH AND DEVELOPMENT PRACTICE

Concept Paper

Further, the type of development being envisioned in the plan (e.g. mixed use, higher residential density, with lower or shared parking requirements) will allow for the market production of lower cost housing product. SCAG estimates that the implementation of this plan could reduce housing prices in the region by 20-35%. Currently, the region's median home price is \$391,000 – affordable to approximately 16-20% of the region's households. A reduction of 20-35% in home prices would bring an additional 1 million households into the for-sale housing market.¹

d. performs in all transportation measures

Taken as a whole, the 2004 Regional Transportation Plan improves mobility in the region, and meets required performance goals, including air quality conformity.

e. improves economic conditions in the region

In creating the 2004 RTP, SCAG assigned a high priority to projects that will improve economic conditions in the region. Notably, SCAG included, and developed accelerated funding strategies for several goods movement and logistics oriented transportation projects. These include a decentralized regional aviation system, dedicated truck-ways, regional rail freight improvements, and high speed rail. These projects will build on the region's current advantages in the trade sector. Due to these targeted investments, the plan assumes higher levels of employment and household formation than in a "no-plan" scenario.

f. incorporates broad growth principles

The land use scenario incorporated into the RTP is based on four Growth Visioning Principles established by SCAG's Regional Council. These principles are Prosperity, Livability, Sustainability, and Mobility. The principles statement (attached) forms a basis for regional growth and development policy with broader applications than the RTP.

e. provides for a baseline performance measure for local governments

The plan clearly identifies opportunity areas for new growth in the region (corridors, centers, airports). The presence of such areas within a city's boundaries creates a performance expectation against which a jurisdiction's policies and actions can be measured. Further, the plan identifies broad principles for growth policies, whereby, even in the absence of a growth opportunity areas, a city can demonstrate performance in support of regional and State objectives.

¹ Assuming income based on 2000 Census, typical 30 year fixed loan, 20% down payment, and 5.5.% interest rate.

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IMPLEMENTATION AND PARTNERSHIP

SCAG intends to pursue a program to implement the features of the 2004 RTP. Among the implementation steps will be targeted technical assistance to cities containing critical growth opportunity areas, the completion of a new Regional Comprehensive Plan, and a system to measure and reward best performing jurisdictions in future RTP updates.

SCAG also requires partnership efforts in order to ensure success. Notably, County Transportation Commissions, water agencies, and the private sector have roles to play. SCAG has received interested from several parties, notably the Los Angeles County MTA (with demonstration projects already underway), in pursuing pilot projects.

For the purpose of this paper, SCAG has identified specific actions that the State of California can take or promote in partnership with SCAG:

a. Protect funding for projects identified in the RTP

As discussed above, SCAG included various projects in the RTP in order to bolster the economic and physical well-being of the region. As such, it is critical for Proposition 42 funding to remain available for these projects, and for critical Traffic Congestion Relief Program (TCRP) projects to be fully funded. Particularly of note are the various projects that support the land use measures in the plan. These account for approximately \$1 million of the \$2.3 million (44%) of TCRP funding identified in the RTP, and 1/5 of the TCRP projects .

b. Align housing subsidy programs with Regional Transportation Plans

For the past several years, SCAG has advocated a regionally based approach to allocating the State's discretionary housing funds. Such an approach would improve the coordination between transportation and land use policy. A policy paper on this issue was prepared by SCAG in 1999. This proposal involves allocating housing resources, including HUD grants, tax credits, and mortgage credit certificates, with explicit consideration of the regional housing need allocation. This provides a positive incentive for addressing housing needs at the local level, allows for predictability in funding, and leverages resources. Such a system could be accomplished either by allowing the COGs to allocate funding, as in transportation planning, or by having State housing agencies use a scoring mechanism provided by the COGs.

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
c. Acknowledge local performance as determined by SCAG for State policy purposes

Through the RTP and implementation measures, SCAG will assist cities in meeting regional and State goals related to housing production and affordability. As such, cities that are identified as good actors through SCAG's growth vision implementation and monitoring should be either exempt from additional State housing policy oversight, or have such oversight significantly reduced. Further, the State should consider a CEQA exemption for activities and projects needed for local governments to meet the share of regional housing need.

d. Coordinate planning horizons for transportation and housing

Currently, the regional transportation plan, under federal law, is a long range planning document, with frequent updates. Conversely the State Housing Element program is a short-term plan, often too short to allow for real local policy changes that produce results. The State should consider longer planning periods for the Housing Element program.

MEMO

DATE: August 16, 2004
TO: Administration Committee and Regional Council
FROM: Heather Copp, Chief Financial Officer
(213) 236-1804, copp@scag.ca.gov 
RE: Monthly Financial Results for July 2004

Information Only

Summary: Monthly financial results for July 2004

Background: This report contains financial data related to SCAG's cash flow, as well as budget and expense data for the month of July 2004.

Cash Flow

During July 2004, the Association received Line of Credit (LOC) advances of \$627,000 compared to \$1,958,000 in the prior year, a decrease of \$1,331,000. Total LOC advances have decreased by 68% compared to last July. At July 31, 2004, the LOC liability was **Zero** compared to \$2,844,500 in the prior year, a decrease of \$2,844,500.

Attachment 1, "Cash Receipts & Disbursements", graphically illustrates the monthly results of cash receipts and disbursements. During July 2004 there were \$2.8 million in receipts and \$3.0 million in disbursements; compared to \$6.8 million and \$ 5.4 million, respectively in the prior year.

Attachment 2, "Unrestricted Cash Status Comparison", illustrates the amount of unrestricted cash that is available to support the Association's day-to-day operations. The unrestricted cash balance at July 31, 2004 was about \$ 1.4 million. This graph illustrates the unrestricted cash status of the last 12 months and the prior 12 months for comparison. The balance fluctuates based on the timing of when cash is received and payments made.

Attachment 3, "Cash Flow Summary", shows the receipts and disbursements during the month of July and their impact on working capital. The report also compares the current month to the same month in the prior year and the current year-to-date period to the same period last year, with variance amounts and the percentage variations.

Budget and Expenses

Also attached is the SCAG Agency Wide budget as well as the General Fund Budget. The Agency Wide budget includes the General Fund. This information is directly exported from the SAP system

The budgets, year-to-date expenses as of July 31, 2004, the remaining budget, and the percent of budget used are reported. They also present information about procurement and actual contract commitments against the line item budgets. The Agency Wide report is all-inclusive, and combines the OWP, the General Fund, fringe benefits, indirect costs, and all other projects.

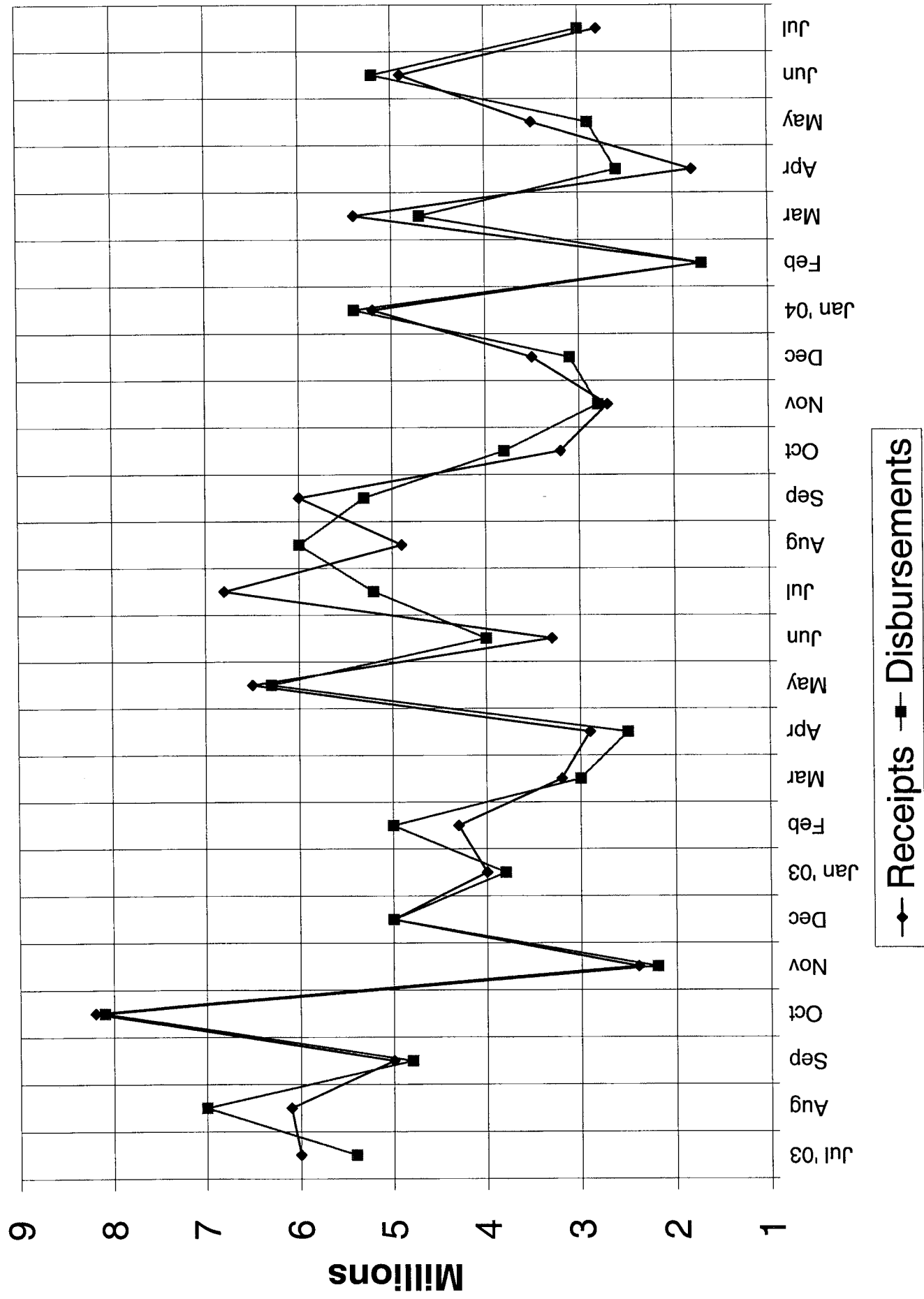
MEMO

The total Agency Wide budget is \$33.6 million and we have expended about 4% or \$1.4 million.

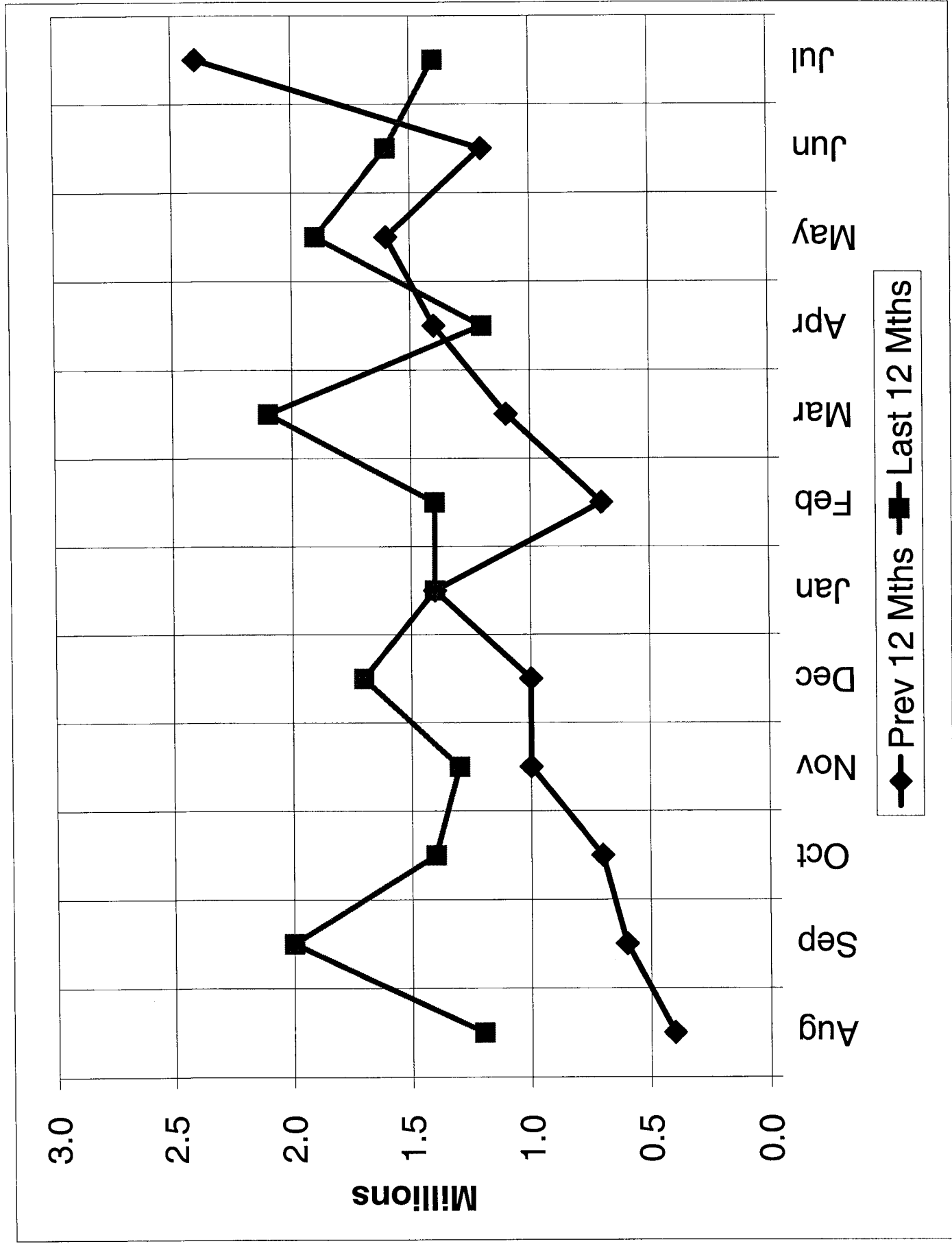
SCAG's General Fund expenses are running at 2% of budget. The total budget is \$1.1 million and actual expenses are \$0.03 million. This is a favorable variance of approx. \$0.06 million for the month of July.

PC Docs 102202

Cash Receipts and Disbursements - Last 24 Months



Unrestricted Cash Status Comparison



Attachment 3

Comparative Cash Flow Summary
FY05 vs. FY04
Month of July and Year to Date

Categories	July 2004	July 2003	Variance \$	Variance %	July 1, 2004 To Date	July 1, 2003 To Date	Variance \$	Variance %
Working Capital Beginning of Period:	\$ 1,610,649	\$ 1,009,814	\$ 600,835	59%	\$ 1,610,649	\$ 1,009,814	\$ 600,835	59%
Receipts:			-					
Grants	993,406	3,298,656	(2,305,250)	-70%	993,406	3,298,656	(2,305,250)	-70%
TDA	825,500	894,000	(68,500)	-8%	825,500	894,000	(68,500)	-8%
Membership Dues *	387,015	667,110	(280,095)	-42%	387,015	667,110	(280,095)	-42%
LOC Draws	627,000	1,958,000	(1,331,000)	-68%	627,000	1,958,000	(1,331,000)	-68%
Miscellaneous	10,578	-	10,578	0%	10,578	-	10,578	0%
Total Receipts	2,843,499	6,817,766	(3,974,267)	-58%	2,843,499	6,817,766	(3,974,267)	-58%
Disbursements:								
Total Disbursements	2,399,485	3,411,053	(1,011,568)	-30%	2,399,485	3,411,053	(1,011,568)	-30%
LOC Payments	627,778	1,964,691	(1,336,913)	-68%	627,778	1,964,691	(1,336,913)	-68%
Total Disbursements	3,027,263	5,375,744	(2,348,481)	-44%	3,027,263	5,375,744	(2,348,481)	-44%
Working Capital End of Period:	\$ 1,426,885	\$ 2,451,836	\$ (1,024,951)	-42%	\$ 1,426,885	\$ 2,451,836	\$ (1,024,951)	-42%

**Southern California Association of Governments
Agency Wide Budget vs. Expenditures and Commitments**

Period: July - July	Budget	July	YTD to July	July Balance	Pct	Commitments	YTD + Comm	Balance	Pct
9001 ALL STAFF	9,314,703	543,057	543,057	8,771,646	6%	0	543,057	8,771,646	6%
54300 SCAG CONSULTANT	10,362,409	0	0	10,362,409	0%	4,629,392	4,629,392	5,733,017	45%
54330 SUBREGIONAL CONS	442,889	0	0	354,359	0%	303,897	303,897	50,462	69%
54340 LEGAL	435,000	0	0	435,000	0%	424,500	424,500	10,500	98%
54350 PROFESSIONAL SVC	804,000	50,379	50,379	753,621	6%	535,928	586,308	217,692	73%
54400 SUBREGIONAL STAFF	933,803	0	0	1,022,333	0%	928,733	928,733	93,600	99%
55200 INTERNET ACCESS FEE	3,000	0	0	3,000	0%	1,796	1,796	1,204	60%
55210 SOFTWARE SUPPORT	115,000	4,483	4,483	110,517	4%	29,230	33,713	81,287	29%
55220 HARDWARE SUPPORT	35,000	3,095	3,095	31,905	9%	20,153	23,248	11,752	66%
55270 CSC SOFTWARE PURCH	28,000	0	0	28,000	0%	3,000	3,000	25,000	11%
55280 3RD PARTY CONTRIBUTN	3,063,230	0	0	3,063,230	0%	3,063,230	3,063,230	0	100%
55400 OFFICE RENT 818-OFFI	1,400,000	110,368	110,368	1,289,632	8%	1,177,835	1,288,203	111,797	92%
55410 OFFICE RENT SATELLIT	38,000	2,939	2,939	35,061	8%	32,123	35,061	2,939	92%
55420 EQUIPMENT LEASES	340,000	27,031	27,031	312,969	8%	281,079	308,109	31,891	91%
55430 EQUIP REPAIR-MAINT	25,000	0	0	25,000	0%	3,250	3,250	21,750	13%
55440 INSURANCE	180,000	178,626	178,626	1,374	99%	0	178,626	1,374	99%
55441 PAYROLL / BANK FEES	25,000	1,162	1,162	23,838	5%	0	1,162	23,838	5%
55510 OFFICE SUPPLIES	100,000	3,892	3,892	96,108	4%	95,496	99,388	612	99%
55530 TELEPHONE	80,000	747	747	79,253	1%	5,327	6,074	73,926	8%
55540 POSTAGE	80,000	636	636	79,364	1%	300	936	79,064	1%
55600 SCAG MEMBERSHIPS	70,500	730	730	69,770	1%	41,415	42,145	28,355	60%
55610 PROF MEMBERSHIPS	7,500	0	0	7,500	0%	0	0	7,500	0%
55620 RESRCE MATER/SUBSC	22,000	2,921	2,921	19,079	13%	15,868	18,789	3,211	85%
55700 DEP - FURN & FIXTURE	32,700	0	0	32,700	0%	0	0	32,700	0%
55710 DEPRECIATION - COMP	85,000	0	0	85,000	0%	0	0	85,000	0%
55730 CAPITAL OUTLAY	500,000	0	0	500,000	0%	0	0	500,000	0%
55800 RECRUITMENT NOTICE	20,000	0	0	20,000	0%	0	0	20,000	0%
55810 PUBLIC NOTICES	25,000	364	364	24,636	1%	2,501	2,865	22,135	11%
55820 STAFF TRAINING	50,000	8,170	8,170	41,830	16%	8,140	16,310	33,690	33%
55910 RC/COMMITTEE MEETIN	20,000	0	0	20,000	0%	8,700	8,700	11,300	44%
55912 RC RETREAT	15,000	0	0	15,000	0%	0	0	15,000	0%
55914 RC GENERAL ASSEMBLY	10,000	0	0	10,000	0%	0	0	10,000	0%
55920 OTHER MEETING EXPENS	47,500	250	250	47,250	1%	11,000	11,250	36,250	24%
55930 MISC. OTHER	541,475	0	0	541,475	0%	86,521	86,521	454,954	16%
55940 STIPEND-RC MTG	130,000	3,000	3,000	127,000	2%	0	3,000	127,000	2%
55950 TEMPORARY HELP	161,000	6,356	6,356	154,644	4%	138,844	145,200	15,800	90%
55970 INTEREST ON BANK LOC	250,000	778	778	249,222	0%	0	778	249,222	0%
55972 RAPID PAY FEES	2,000	75	75	1,925	4%	0	75	1,925	4%
55980 CASH CONTRIBU PROJ	10,000	0	0	10,000	0%	0	0	10,000	0%
56100 PRINTING	162,727	0	0	162,727	0%	995	995	161,732	1%
58100 TRAVEL	200,900	4,148	4,148	196,752	2%	350	4,498	196,402	2%
58200 TRAVEL-REGISTRATION	18,800	390	390	18,410	2%	1,954	2,344	16,456	12%

**Southern California Association of Governments
Agency Wide Budget vs. Expenditures and Commitments**

	Period: July - July	Budget	July	YTD to July	July Balance	Pct	Commitments	YTD + Comm	Balance	Pct
58500	AMPO BOARD EXPENSE	1,000	0	0	1,000	0%	0	0	1,000	0%
58700	RC APPROVED COSTS	49,000	0	0	49,000	0%	15,500	15,500	33,500	32%
60001	VACATION LEAVE	0	7,863	7,863	-7,863	0%	0	7,863	-7,863	0%
60020	SICK LEAVE BUYBACK	0	-654	-654	654	0%	0	-654	654	0%
60100	SEV/VAC REBATE/BONUS	0	38,242	38,242	-38,242	0%	0	38,242	-38,242	0%
60110	RETIREMENT-PERS	1,376,879	91,702	91,702	1,285,177	7%	0	91,702	1,285,177	7%
60120	RETIREMENT-PARS	55,800	0	0	55,800	0%	0	0	55,800	0%
60200	HEALTH INS.	773,000	59,412	59,412	713,588	8%	0	59,412	713,588	8%
60210	DENTAL INS.	78,895	7,595	7,595	71,300	10%	0	7,595	71,300	10%
60220	VISION INS.	30,000	2,328	2,328	27,672	8%	0	2,328	27,672	8%
60225	LIFE INSURANCE	110,000	8,328	8,328	101,672	8%	0	8,328	101,672	8%
60230	MED/DEN REBATE	316,000	0	0	316,000	0%	0	0	316,000	0%
60240	MEDICARE TX EMPLRS	135,137	6,439	6,439	128,698	5%	0	6,439	128,698	5%
60300	TUITION REIMBURSEMENT	15,000	0	0	15,000	0%	0	0	15,000	0%
60310	BUS PASSES	15,000	1,005	1,005	13,995	7%	0	1,005	13,995	7%
60320	CARPOOL REIMBURSEMENT	5,000	175	175	4,825	4%	0	175	4,825	4%
60330	BUS PASS-TAXABLE	75,000	4,632	4,632	70,368	6%	0	4,632	70,368	6%
60400	WORKERS COMP INS	230,097	233,900	233,900	-3,803	102%	0	233,900	-3,803	102%
60405	UNEMPLOYMNT COMP INS	40,000	0	0	40,000	0%	0	0	40,000	0%
60410	MISC. EMP. BENE	0	0	0	0	0%	0	0	0	0%
60415	SCAG 457 MATCH	65,000	1,733	1,733	63,267	3%	0	1,733	63,267	3%
60450	BENEFITS ADMIN FEES	4,000	240	240	3,760	6%	4,000	4,240	-240	106%
	Grand totals:	33,561,944	1,416,535	1,416,535	32,145,409	4%	11,871,057	13,287,592	20,274,352	40%

000200

**Southern California Association of Governments
General Fund Budget vs. Expenditures and Commitments**

	Period: July - July	Budget	July	YTD to July	July Balance	Pct	Commitments	YTD + Comm	Balance	Pct
9001 ALL STAFF		9,152	0	0	9,152	0	0	0	9,152	0
9901 FRINGE BENEFIT BRDN		5,050	0	0	5,050	0	0	0	5,050	0
9914 IC BURDEN		15,797	0	0	15,797	0	0	0	15,797	0
54340 LEGAL		200,000	0	0	200,000	0	200,000	200,000	0	100
54350 PROFESSIONAL SVC		280,000	23,320	23,320	256,680	8	130,000	153,320	126,680	55
55600 SCAG MEMBERSHIPS		10,000	30	30	9,970	0	12,283	12,313	-2,313	123
55730 CAPITAL OUTLAY		100,000	0	0	100,000	0	0	0	100,000	0
55910 RC/COMMITTEE MEETIN		20,000	0	0	20,000	0	8,700	8,700	11,300	44
55912 RC RETREAT		15,000	0	0	15,000	0	0	0	15,000	0
55914 RC GENERAL ASSEMBLY		10,000	0	0	10,000	0	0	0	10,000	0
55940 STIPEND-RC MTG		130,000	3,000	3,000	127,000	2	0	3,000	127,000	2
55970 INTEREST ON BANK LOC		250,000	778	778	249,222	0	0	778	249,222	0
55972 RAPID PAY FEES		2,000	75	75	1,925	4	0	75	1,925	4
55980 CASH CONTRIBU PROJ		10,000	0	0	10,000	0	0	0	10,000	0
58100 TRAVEL		17,000	0	0	17,000	0	0	0	17,000	0
58200 TRAVEL-REGISTRATION		3,000	30	30	2,970	1	0	30	2,970	1
58500 AMPO BOARD EXPENSE		1,000	0	0	1,000	0	0	0	1,000	0
58700 RC APPROVED COSTS		49,000	0	0	49,000	0	15,500	15,500	33,500	32
Grand totals:		1,127,000	27,233	27,233	1,099,767	2	366,483	393,716	733,284	35

000201

REPORT

DATE: September 2, 2004

TO: Administration Committee and Regional Council

FROM: Heather Copp, CFO *HC*

SUBJECT: Membership Dues

BACKGROUND: The SCAG's bylaws state that membership is contingent upon execution of the Joint Powers Agreement and the payment by each county or city of each annual assessment. In the event a county or city has not paid the annual dues assessment by October 1 of the July 1 – June 30 Fiscal Year, its General Assembly Representative(s) shall serve in an Ex-Officio status, without the right to vote. Failure to pay the annual dues assessment by January 30 of the July 1 – June 30 Fiscal Year shall be deemed to be an automatic withdrawal from membership.

To date, we have collected \$539,282 out of \$1,343,309 or 41%. Of the unpaid balance of \$794,027, approximately 34% is attributable to the City of Los Angeles who has been contacted and is in the process of remitting payment. Of the remaining, there are three counties, one county transportation commission, and 31 cities. SCAG's Government Relation's Office is currently in the process of following up with each of the entities for remittance of the payment of dues.

FISCAL IMPACT: If the dues are not collected, SCAG will be short revenues to meet expected obligations. *HC*



SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS						
DUES PAYMENT SCHEDULE						
FOR THE FISCAL YEAR 2004-05						
as of August 15, 2004						
	UNINC POP	DUES ASSESSMENT				
	COUNTIES/TOTAL	2004-05	PAYMENT	BALANCE	DATE PAID	REMARKS
	POP CITIES (1)					
COUNTIES (6)						
IMPERIAL	31,525	5,746	-	5,746		
LOS ANGELES	1,047,718	109,551	109,551	-	08/02/04	
ORANGE	44,886	28,194	28,194	-	08/06/04	
RIVERSIDE	452,817	47,225	-	47,225		
SAN BERNARDINO	293,285	35,870	-	35,870		
VENTURA	94,090	16,693	16,693	-	07/19/04	
SUB-TOTAL	1,964,321	243,279	154,438	88,841		
CITIES (2)						
ADELANTO	19,396	1,627	1,627	-	07/30/04	
AGOURA HILLS	21,930	1,808	1,808	-	06/22/04	
ALHAMBRA	88,938	6,832	6,832	-	07/08/04	
ALISO VIEJO	-	-	-	-		Non-member
ANAHEIM	337,440	24,758	24,758	-	08/09/04	
APPLE VALLEY	58,883	4,687	4,687	-	07/13/04	
ARCADIA	55,531	4,450	4,450	-	06/02/04	
ARTESIA	17,007	1,458	1,458	-	07/16/04	
AVALON	3,317	337	337	-	07/22/04	
AZUSA	47,165	3,853	3,853	-	08/02/04	
BALDWIN PARK	79,573	6,166	-	6,166		
BANNING	25,504	2,310	2,310	-	07/14/04	
BARSTOW	22,980	1,887	1,887	-	07/06/04	
BEAUMONT	13,783	1,232	1,232	-	06/07/04	
BELL	38,233	3,220	3,220	-	07/22/04	
BELLFLOWER	76,428	5,940	5,940	-	07/08/04	
BELL GARDENS	45,769	3,762	3,762	-	07/01/04	
BEVERLY HILLS	35,350	3,017	3,017	-	07/09/04	
BIG BEAR LAKE	5,872	518	518	-	07/15/04	
BLYTHE	-	-	-	-		Non-member
BRADBURY	921	168	168	-	06/28/04	
BRAWLEY	23,330	1,910	1,910	-	06/28/04	
BREA	37,962	3,198	3,198	-	06/21/04	
BUENA PARK	80,617	6,234	6,234	-	06/28/04	
BURBANK	104,497	8,188	8,188	-	06/22/04	
CALABASAS	21,077	1,751	1,751	-	06/29/04	
CALEXICO	31,778	2,757	-	2,757		
CALIMESA	7,333	620	620	-	06/23/04	
CALIPATRIA	7,686	642	642	-	07/19/04	
CAMARILLO	60,515	4,800	4,800	-	07/16/04	
CANYON LAKE	-	-	-	-		Non-member
CARSON	94,826	7,250	-	7,250		
CATHEDRAL CITY	47,292	3,864	3,864	-	07/06/04	
CERRITOS	54,228	4,360	4,360	-	07/06/04	
CHINO	70,663	5,523	5,523	-	07/19/04	
CHINO HILLS	72,994	5,692	-	5,692		
CLAREMONT	36,098	3,074	-	3,074		
COACHELLA	26,772	2,408	2,408	-	07/06/04	
COLTON	50,211	4,078	4,078	-	06/17/04	

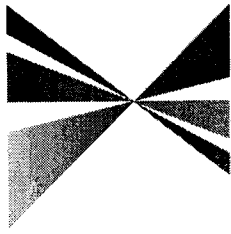
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS						
DUES PAYMENT SCHEDULE						
FOR THE FISCAL YEAR 2004-05						
as of August 15, 2004						
		DUES				
	UNINC POP	ASSESSMENT				
	COUNTIES/TOTAL	2004-05	PAYMENT	BALANCE	DATE PAID	REMARKS
	POP CITIES (1)					
COMMERCE	13,175	1,187	1,187	-	07/12/04	
COMPTON	96,996	7,396	-	7,396		
CORONA	137,006	10,502	10,502	-	07/06/04	
COSTA MESA	-	-	-	-		Non-member
COVINA	48,721	3,965	3,965	-	07/15/04	
CUDAHY	25,455	2,306	2,306	-	08/02/04	
CULVER CITY	40,256	3,366	3,366	-	08/05/04	
CYPRESS	47,644	3,886	3,886	-	06/22/04	
DANA POINT	-	-	-	-		Non-member
DESERT HOT SPRINGS	17,181	1,469	-	1,469		
DIAMOND BAR	58,963	4,699	4,699	-	07/06/04	
DOWNEY	111,687	8,696	8,696	-	07/13/04	
DUARTE	22,377	1,841	1,841	-	07/19/04	
EL CENTRO	39,951	3,344	3,344	-	07/06/04	
EL MONTE	121,922	9,430	9,430	-	07/08/04	
EL SEGUNDO	16,697	1,436	1,436	-	06/17/04	
FILLMORE	14,690	1,299	-	1,299		
FONTANA	145,770	11,123	11,123	-	06/29/04	
FOUNTAIN VALLEY	-	-	-	-		Non-member
GARDEN GROVE	169,911	12,838	-	12,838		
GARDENA	60,120	4,778	4,778	-	06/11/04	
GLENDALE	202,747	15,175	15,175	-	07/26/04	
GLENDORA	51,470	4,157	-	4,157		
GRAND TERRACE	12,090	1,108	1,108	-	07/26/04	
HAWAIIAN GARDENS	15,575	1,356	1,356	-	07/16/04	
HAWTHORNE	87,423	6,719	6,719	-	07/16/04	
HEMET	62,223	4,924	-	4,924		
HERMOSA BEACH	19,365	1,627	-	1,627		
HIDDEN HILLS	1,999	246	246	-	06/23/04	
HIGHLAND	47,412	3,875	3,875	-	07/16/04	
HISPERIA	-	-	-	-		Non-member
HOLTVILLE	5,918	518	518	-	07/30/04	
HUNTINGTON BEACH	196,954	14,768	-	14,768		
HUNTINGTON PARK	63,970	5,048	-	5,048		
IMPERIAL	8,461	698	698	-	06/28/04	
INDIAN WELLS	4,396	416	416	-	06/21/04	
INDIO	54,450	4,371	-	4,371		
INDUSTRY	797	157	157	-	06/15/04	
INGLEWOOD	116,979	9,069	9,069	-	07/28/04	
IRVINE	164,923	12,488	12,488	-	06/10/04	
IRWINDALE	1,497	202	202	-	06/16/04	
LA CANADA FLINTRIDGE	21,213	1,762	1,762	-	07/08/04	
LA HABRA	61,188	4,857	4,857	-	07/08/04	
LA HABRA HEIGHTS	6,070	529	529	-	05/28/04	
LA MIRADA	48,921	3,977	3,977	-	06/22/04	
LA PALMA	15,954	1,390	1,390	-	06/17/04	
LA PUENTE	-	-	-	-		Non-member
LA QUINTA	30,452	2,667	-	2,667		
LA VERNE	32,923	2,848	2,848	-	07/08/04	
LAGUNA BEACH	24,589	2,000	2,000	-	07/20/04	
LAGUNA HILLS	-	-	-	-		Non-member
LAGUNA NIGUEL	65,092	5,128	5,128	-	07/08/04	

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS						
DUES PAYMENT SCHEDULE						
FOR THE FISCAL YEAR 2004-05						
as of August 15, 2004						
		DUES				
	UNINC POP	ASSESSMENT				
	COUNTIES/TOTAL	2004-05	PAYMENT	BALANCE	DATE PAID	REMARKS
	POP CITIES (1)					
LAGUNA WOODS	-	-	-	-		Non-member
LAKE ELSINORE	33,035	2,848	2,848	-	06/22/04	
LAKE FOREST	77,332	5,997	5,997	-	06/17/04	
LAKESWOOD	82,333	6,358	6,358	-	07/06/04	
LANCASTER	126,052	9,724	9,724	-	07/16/04	
LAWNDALE	32,851	2,837	2,837	-	07/09/04	
LOMA LINDA	20,136	1,684	1,684	-	07/16/04	
LOMITA	20,836	1,729	1,729	-	07/22/04	
LONG BEACH	480,973	34,972	-	34,972		
LOS ALAMITOS	11,817	1,085	1,085	-	06/17/04	
LOS ANGELES	3,864,360	257,511	-	257,511		
LYNWOOD	72,605	5,670	5,670	-	07/29/04	
MALIBU	13,317	1,198	1,198	-	06/17/04	
MANHATTAN BEACH	36,286	3,085	3,085	-	06/10/04	
MAYWOOD	29,146	2,576	2,576	-	07/22/04	
MISSION VIEJO	-	-	-	-		Non-member
MONROVIA	38,450	3,231	3,231	-	07/08/04	
MONTCLAIR	34,306	2,938	2,938	-	06/07/04	
MONTEBELLO	64,695	5,105	-	5,105		
MONTEREY PARK	63,406	5,015	5,015	-	08/10/04	
MOORPARK	34,529	2,961	2,961	-	08/02/04	
MORENO VALLEY	150,203	11,439	11,439	-	06/10/04	
MURRIETA	69,907	5,477	5,477	-	07/10/04	
NEEDLES	5,225	472	472	-	06/11/04	
NEWPORT BEACH	79,987	6,188	6,188	-	07/29/04	
NORCO	25,245	2,295	-	2,295		
NORWALK	108,699	8,482	8,482	-	07/23/04	
OJAI	7,991	664	664	-	06/15/04	
ONTARIO	165,678	12,533	-	12,533		
ORANGE	-	-	-	-		Non-member
OXNARD	182,027	13,697	-	13,697		
PALM DESERT	43,917	3,627	3,627	-	06/07/04	
PALM SPRINGS	43,997	3,627	3,627	-	07/19/04	
PALMDALE	127,225	9,802	9,802	-	06/17/04	
PALOS VERDES ESTATES	-	-	-	-		Non-member
PARAMOUNT	57,314	4,575	4,575	-	07/08/04	
PASADENA	142,202	10,864	10,864	-	07/23/04	
PERRIS	-	-	-	-		Non-member
PICO RIVERA	65,926	5,196	5,196	-	06/07/04	
PLACENTIA	49,097	3,999	-	3,999		
POMONA	156,503	11,891	11,891	-	07/08/04	
PORT HUENEME	22,249	1,830	1,830	-	07/06/04	
RANCHO CUCAMONGA	146,666	11,191	11,191	-	07/19/04	
RANCHO MIRAGE	14,965	1,311	-	1,311		
RANCHO PALOS VERDES	42,810	3,547	3,547	-	08/09/04	
RANCHO STA MARGARITA	-	-	-	-		Non-member
REDLANDS	67,604	5,309	5,309	-	06/07/04	
REDONDO BEACH	66,545	5,229	-	5,229		
RIALTO	96,561	7,374	-	7,374		
RIVERSIDE	274,071	20,254	20,254	-	07/12/04	
ROLLING HILLS	1,937	235	235	-	07/14/04	

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS						
DUES PAYMENT SCHEDULE						
FOR THE FISCAL YEAR 2004-05						
as of August 15, 2004						
		DUES				
	UNINC POP	ASSESSMENT				
	COUNTIES/TOTAL	2004-05	PAYMENT	BALANCE	DATE PAID	REMARKS
	POP CITIES (1)					
ROLLING HILLS ESTATES	8,051	675	675	-	07/29/04	
ROSEMEAD	56,065	4,484	4,484	-	07/30/04	
SAN BERNARDINO	194,120	14,565	14,565	-	07/23/04	
SAN BUENAVENTURA	104,259	8,166	8,166	-	06/07/04	
SAN CLEMENTE	60,701	4,823	-	4,823		
SAN DIMAS	36,435	3,096	3,096	-	07/01/04	
SAN FERNANDO	24,508	1,988	1,988	-	07/08/04	
SAN GABRIEL	41,567	3,457	3,457	-	06/01/04	
SAN JACINTO	-	-	-	-		Non-member
SAN JUAN CAPISTRANO	-	-	-	-		Non-member
SAN MARINO	13,436	1,210	1,210	-	07/06/04	
SANTA ANA	-	-	-	-		Non-member
SANTA CLARITA	162,875	12,342	12,342	-	08/09/04	
SANTA FE SPRINGS	17,997	1,525	1,525	-	07/13/04	
SANTA MONICA	89,333	6,854	6,854	-	07/20/04	
SANTA PAULA	29,303	2,589	2,589	-	07/26/04	
SEAL BEACH	24,921	2,022	2,022	-	07/15/04	
SIERRA MADRE	10,973	1,029	-	1,029		
SIGNAL HILL	10,284	984	-	984		
SIMI VALLEY	117,671	9,125	9,125	-	08/06/04	
SOUTH EL MONTE	21,959	1,808	1,808	-	07/21/04	
SOUTH GATE	100,297	7,883	-	7,883		
SOUTH PASADENA	25,226	2,295	2,295	-	06/21/04	
STANTON	-	-	-	-		Non-member
TEMECULA	75,014	5,838	5,838	-	07/12/04	
TEMPLE CITY	-	-	-	-		Non-member
THOUSAND OAKS	123,986	9,576	9,576	-	08/06/04	
TORRANCE	144,415	11,021	11,021	-	06/21/04	
TUSTIN	69,754	5,466	5,466	-	07/16/04	
TWENTYNINE PALMS	27,589	2,464	-	2,464		
UPLAND	71,819	5,613	5,613	-	07/06/04	
VERNON	-	-	-	-		Non-member
VICTORVILLE	72,485	5,658	5,658	-	07/08/04	
VILLA PARK	-	-	-	-		Non-member
WALNUT	31,420	2,735	2,735	-	08/02/04	
WEST COVINA	110,515	8,617	8,617	-	06/21/04	
WEST HOLLYWOOD	37,292	3,153	3,153	-	07/22/04	
WESTLAKE VILLAGE	8,764	721	721	-	06/16/04	
WESTMINSTER	-	-	-	-		Non-member
WESTMORELAND	2,274	258	258	-	06/21/04	
WHITTIER	-	-	-	-		Non-member
YORBA LINDA	62,678	4,959	4,959	-	07/06/04	
YUCAIPA	45,412	3,729	-	3,729		
YUCCA VALLEY	17,966	1,525	1,525	-	06/30/04	
SUB-TOTAL	13,837,852	1,039,905	589,464	450,441		
GRAND TOTAL	15,802,173	1,283,184	743,902	539,282		
ADD: COMMISSIONS						
RCTC		15,000	15,000	-	07/06/04	

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS						
DUES PAYMENT SCHEDULE						
FOR THE FISCAL YEAR 2004-05						
as of August 15, 2004						
		DUES				
	UNINC POP	ASSESSMENT				
	COUNTIES/TOTAL	2004-05	PAYMENT	BALANCE	DATE PAID	REMARKS
	POP CITIES (1)					
VCTC		10,000	-	10,000		
OCTA		25,000	25,000	-	06/10/04	
SUB-TOTAL		50,000	40,000	10,000		
ADD: NEW MEMBERS						
FULLERTON	131,474	10,125	10,125	-	07/23/04	
ADJUSTED GRAND TOTAL		1,343,309	794,027	549,282		
(1) Pursuant to the SCAG by-laws, the source of populations of the counties & cities are based on the State Controllers Motor Vehicle License Fee Apportionment. Report dated 12/08/03.						
(2) 163 cities are members out of 187 possible						
Prepared by: Betty B. Araos- 08/16/2004						
Doc#99214						

SOUTHERN CALIFORNIA



**ASSOCIATION of
GOVERNMENTS**

Main Office

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12th Floor

Los Angeles, California

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www.scag.ca.gov

Officers: President: Councilmember Ron Roberts, Temecula • First Vice President: Supervisor Hank Kuiper, Imperial County • Second Vice President: Mayor Toni Young, Port Hueneme • Immediate Past President: Councilmember Bev Perry, Brea

Imperial County: Hank Kuiper, Imperial County • Jo Shields, Brawley

Los Angeles County: Yvonne Brathwaite Burke, Los Angeles County • Zev Yaroslavsky, Los Angeles County • Jim Aldinger, Manhattan Beach • Harry Baldwin, San Gabriel • Paul Bowlen, Cerritos • Tony Cardenas, Los Angeles • Margaret Clark, Rosemead • Gene Daniels, Paramount • Mike Dispenza, Palmdale • Judy Dunlap, Inglewood • Eric Garcetti, Los Angeles • Wendy Greuel, Los Angeles • Frank Gurulé, Cudahy • James Hahn, Los Angeles • Janice Hahn, Los Angeles • Isadore Hall, Compton • Tom LaBonge, Los Angeles • Bonnie Lowenthal, Long Beach • Martin Ludlow, Los Angeles • Keith McCarthy, Downey • Llewellyn Miller, Claremont • Cindy Miskowski, Los Angeles • Paul Nowatka, Torrance • Pam O'Connor, Santa Monica • Alex Padilla, Los Angeles • Bernard Parks, Los Angeles Jan Perry, Los Angeles • Beatrice Proo, Pico Rivera Ed Reyes, Los Angeles • Greig Smith, Los Angeles Dick Stanford, Azusa • Tom Sykes, Walnut • Paul Talbot, Alhambra • Sidney Tyler, Pasadena • Tonia Reyes Uranga, Long Beach • Antonio Villaraigosa, Los Angeles • Dennis Washburn, Calabasas • Jack Weiss, Los Angeles • Bob Yousefian, Glendale • Dennis Zine, Los Angeles

Orange County: Chris Norby, Orange County • Ronald Bates, Los Alamitos • Lou Bone, Tustin • Art Brown, Buena Park • Richard Chavez, Anaheim Debbie Cook, Huntington Beach • Cathryn DeYoung, Laguna Niguel • Richard Dixon, Lake Forest • Alta Duke, La Palma • Bev Perry, Brea • Tod Ridgeway, Newport Beach

Riverside County: Marion Ashley, Riverside County • Thomas Buckley, Lake Elsinore • Bonnie Flickinger, Moreno Valley • Ron Loveridge, Riverside • Greg Pettis, Cathedral City • Ron Roberts, Temecula

San Bernardino County: Paul Biane, San Bernardino County • Bill Alexander, Rancho Cucamonga • Edward Burgon, Town of Apple Valley • Lawrence Dale, Barstow • Lee Ann Garcia, Grand Terrace • Susan Longville, San Bernardino • Gary Ovitt, Ontario • Deborah Robertson, Rialto

Ventura County: Judy Mikels, Ventura County • Glen Becerra, Simi Valley • Carl Morehouse, San Buenaventura • Toni Young, Port Hueneme

Orange County Transportation Authority: Charles Smith, Orange County

Riverside County Transportation Commission: Robin Lowe, Hemet

Ventura County Transportation Commission: Bill Davis, Simi Valley

MEETING OF THE

ADMINISTRATION COMMITTEE

**Thursday, September 2, 2004
9:00 a.m. – 10:15 a.m.**

SCAG Offices

**818 W. 7th Street, 12th Floor
San Bernardino Conference Room
Los Angeles, California 90017
213. 236.1800**

Agenda Enclosed

If members of the public wish to review the attachments or have any questions on any of the agenda items, please contact Deby Salcido at 213.236.1993 or Salcido@scag.ca.gov.

Agendas and Minutes for the Administration Committee are also available at:

www.salcido@scag.ca.gov

SCAG, in accordance with the Americans with Disabilities Act (ADA), will accommodate persons who require a modification of accommodation in order to participate in this meeting. If you require such assistance, please contact SCAG at (213) 236-1868 at least 72 hours in advance of the meeting to enable SCAG to make reasonable arrangements. To request documents related to this document in an alternative format, please contact (213) 236-1868.

ADMINISTRATION COMMITTEE

AGENDA

	PAGE #	ACTIONS
4.0	<u>ACTION ITEMS</u>	
4.1	<u>Amendment to SCAG's Travel Policy RC Attachment</u>	123
	Recommended Action: Approve	
4.2	<u>Amendment of legal services contract with Fulbright & Jaworski & establishment of Legal Services Subcommittee</u>	
	Recommended Action: Approve	
4.3	<u>Maglev 2004 Conference in Shanghai RC Attachment</u>	131
	Recommended Action: Approve	
5.0	<u>INFORMATION ITEMS</u>	
5.1	<u>Monthly Financial Report RC Attachment</u>	Heather Copp, CFO 194
5.2	<u>Membership Dues RC Attachment</u>	Heather Copp CFO 202
5.3	<u>FY 05-06 Overall Work Program Priorities</u>	Jim Gosnell, Deputy Executive Director
5.4	<u>CFO Staff Report</u>	Heather Copp, CFO
6.0	<u>FUTURE AGENDA ITEMS</u>	
	Any committee members or staff desiring to place items on a future agenda may make such request. Comments should be limited to three minutes.	
7.0	<u>ANNOUNCEMENTS</u>	
8.0	<u>ADJOURNMENT</u>	

The next meeting is scheduled for Thursday, October 7, 2004 at the SCAG Offices, downtown Los Angeles.



ADMINISTRATION COMMITTEE

AGENDA

	PAGE #	ACTIONS
1.0 <u>CALL TO ORDER</u>		Councilmember Dixon, Chair
2.0 <u>PUBLIC COMMENT PERIOD</u> -- Members of the public desiring to speak on an agenda item, or agenda items not on the agenda, but within the purview of this committee, must notify the Secretary and fill out a speaker's card prior to speaking. A speaker's card must be turned in before the meeting is called to order. Comments will be limited to three minutes. The Chair may limit the total time for comments to twenty (20) minutes.		
3.0 <u>CONSENT CALENDAR</u>		
3.1 <u>Approval Items</u>		
3.1.1 <u>Approval of August 5, 2004 Minutes Attachment</u>	208	
3.1.2 <u>Contracts RC Attachment</u>	12	
• Managing Excellence Consulting Services	13	
• University of Southern California	15	
• Kaku Associates	17	
3.1.3 <u>Approve Draft Disadvantaged Business Enterprise Policy Statement RC Attachment</u>	19	
3.1.4 <u>Approve California Trucking Association Membership Dues RC Attachment</u>	100	
3.2 <u>Receive & File</u>		
3.2.1 <u>Contracts & PO's between \$5,000-\$25,000 RC Attachment</u>	101	
3.2.2 <u>Conflict of Interest Listing RC Attachment</u>	103	
3.2.3 <u>SCAG Legislative Matrix RC Attachment</u>	104	
3.2.4 <u>Report on On-Line Banking with Bank of the West. RC Attachment</u>	117	
3.2.5 <u>Approval of NARC Membership Dues RC Attachment</u>	119	
3.2.6 <u>Meeting Summary from Policy Committees RC Attachment</u>	121	



SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS
Administration Committee Minutes
August 5, 2004

THE FOLLOWING MINUTES ARE A SUMMARY OF ACTIONS TAKEN BY THE ADMINISTRATION COMMITTEE. AUDIO CASSETTE TAPES OF THE MEETING ARE AVAILABLE FOR LISTENING IN SCAG'S OFFICE.

The Administration Committee of the Southern California Association of Governments held its meeting at the SCAG Offices, 818 W. 7th Street, 12th Floor, Los Angeles, CA 90017. The meeting was called to order by the Chairperson, Councilmember Richard Dixon, City of Lake Forest. There was a quorum.

1.0 CALL TO ORDER

Chairman Richard Dixon called the meeting to order at 9:08 a.m.

Committee Members Present:

Mayor William Alexander	City of Rancho Cucamonga
Mayor Harry Baldwin	City of San Gabriel
Mayor Margaret Clark	City of Rosemead
Mayor Richard Dixon	City of Lake Forest
Supervisor Hank Kuiper	County of Imperial
Mayor Ron Loveridge	City of Riverside
Supervisor Judy Mikels	County of Ventura
Councilmember Bev Perry	City of Brea
Mayor Pro-Tem Greg Pettis	City of Cathedral City
Councilmember Ron Roberts	City of Temecula
Councilmember Deborah Robertson	City of Rialto
Vice Mayor Sidney Tyler	City of Pasadena
Councilmember Dennis Washburn	City of Calabasas
Mayor Toni Young	City of Port Hueneme
Mayor Bob Yousefian	City of Glendale

Committee Members Absent:

Councilmember Paul Bowlen	City of Cerritos
Councilmember Mike Dispenza	City of Palmdale
Mayor Alta Duke	City of La Palma
Councilmember Lee Ann Garcia	City of Grand Terrace
Mayor Pro-Tem Keith McCarthy	City of Downey
Councilmember Paul Nowatka	City of Torrance
Councilmember Pam O'Connor	City of Santa Monica
Councilmember Bea Proo	City of Pico Rivera

Staff Present:

Heather Copp	Chief Financial Officer
Charlie Wagner	Acting Manager of Finance

Others Present:

Zahi Faranesh	SCAG
Duane Bankey	SCAG
Ed Jones	SCAG Liaison
Ty Schuiling	SANBAG

000208

Others Present (Cont'd):

Jeff Lustgarten
Ed Paul

Cerrell Associates
SCAG

• **CHAIR & VICE-CHAIR ELECTIONS**

Councilmember Richard Dixon, Chair, opened the nominations for Chair and Vice-Chair.

Councilmember Bev Perry made a dual nomination, Councilmember Richard Dixon for Chair and Vice-Mayor Sidney Tyler for Vice-Chair. Supervisor Judy Mikels seconded the nomination.

It was MOVED (Supervisor Judy Mikels), SECONDED (Councilmember Bev Perry) to close the nominations. There being no objection the elections stand.

2.0 PUBLIC COMMENT PERIOD

No public comments.

3.0 CONSENT CALENDAR

Vice-Mayor Sidney Tyler asked that item 3.1.2, Fregonese Calthorpe be pulled.

The remainder of the Consent Calendar was MOVED (Supervisor Judy Mikels), SECONDED (Councilmember Bev Perry) and UNANIMOUSLY APPROVED.

3.1 Approval Items

3.1.1 Approval of June 3, 2004 Minutes

3.1.2 Contracts

- Fregonese Calthorpe

Vice-Mayor Sidney Tyler raised concern with the phrase “implement the strategy” and asked for clarification.

Lynn Harris, Manager of Community Development clarified that the consultant contract will develop a strategy for how we will go into the Region and talk with our government partners on how we implement the Compass Program and the 2% Strategy. She further clarified that the land use distributions on the COMPASS maps are expected to be continually reviewed and refined as we proceed with implementation.

The item was MOVED (Councilmember Bev Perry), SECONDED (Vice-Mayor Sidney Tyler) and APPROVED. Mayor Margaret Clark and Mayor Pro-Tem Greg Pettis voted AGAINST. 000209

Contracts (cont'd)

- David Evans & Associates
- AG/HP (Touchstone Lake, LLC (lease renewal)
- The Patina Group
- Project Manager for IT Implementation (TBD)

- 3.1.3 Approval of 2004-05 Membership Dues for CALCOG
- 3.1.4 Approve Draft Disadvantage Business Enterprise Goal and Methodology for Federal FY 2004-2005
- 3.1.5 Approve Co-Sponsorship of UCLA's Extension Public Policy Program 2004 Arrowhead Symposium
- 3.1.6 Approve Co-Sponsorship of Rail-Volution Conference to be held on Sept 18-22
- 3.1.7 Co-Sponsorship of So. California Leadership Class XV Tuition, Luncheon & Graduation
- 3.1.8 Authorize Foreign Travel for Ron Roberts & Mark Pisano to Make a Presentation at the Request of Seoul Development Institute Held in Seoul Korea in October 2004
- 3.1.9 Approve Coalition for America's Gateways and Trade Corridors for 2004
- 3.1.10 Approval to Sponsor 3rd Annual Inland Empire Transportation & Logistics Summit

3.2 Receive & File

- 3.2.1 FY 2004-2005 OWP Administrative Amendment
- 3.2.2 Contracts & PO's between \$5,000-\$25,000
- 3.2.3 Conflict of Interest Listing
- 3.2.4 SCAG Legislative Matrix

4.0 ACTION ITEMS

4.1 FY 2005-2006 Overall Work Program (OWP) Schedule

Mayor Toni Young asked if SCAG falls out of conformity, would this have an impact on the OWP schedule.

Karen Tachiki answered that this is only the schedule for development of the OWP. The schedule would not change but the products included in the OWP might change.

Vice-Mayor Sidney Tyler asked that an amendment be made to include a Management Summary of what is in the plan be provided, including written analysis and comparisons to the previous year.

Mayor Bob Yousefian asked that an amendment be made to also include a matrix for quick reference.

The Item was MOVED (Supervisor Judy Mikels), SECONDED (Mayor Toni Young) and UNANIMOUSLY APPROVED, as amended.

4.2 Authorize Executive Director to Terminate TranStar License Agreement With the Partnership and Enter Into Appropriate Agreements Including a MOU With the CTCs to Finally Dispose of the Rideshare and TranStar Programs and Assets

Additionally, the MOU is to include provisions recognizing the ability of the Partnership to provide uninterrupted services under existing contracts.

The Item was MOVED (Supervisor Judy Mikels), SECONDED (Councilmember Ron Roberts) and UNANIMOUSLY APPROVED.

5.0 INFORMATION ITEMS

5.1 Monthly Financial Report

Heather Copp reported on the May and preliminary June reports. The June report is not final because invoices are still being processed and it should be final within the next couple weeks. It appears that SCAG will be at or under budget in all of its categories. SCAG also ended FY 2004 with no outstanding balance on the line of credit and also spent approximately \$125,000 less on the line of credit than in the previous year.

5.2 CFO Staff Report

Heather Copp reported that SCAG is currently closing the FY 2003-2004 books. Finance is currently preparing for the KPMG audit in September and the OWP Caltrans Audit in the fall. We are currently looking at our procurement and contracting processes as well as project files and final work products, to make sure they are all complete and accessible to the auditors.

Finance will begin the FY 2005-2006 budget process shortly. It should be a more comprehensive document that will include the general fund, OWP, indirect cost allocation, and fringe budgets all in one document. It will also include a summary of the OWP including a matrix.

6.0 AUDIT/BEST PRACTICES SUBCOMMITTEE

Vice-Mayor Sidney Tyler reported that SCAG has received a good evaluation of the FY04-05 ICAP Audit and received any approval in record time.

Caltrans is preparing to audit the OWP of FY 03-04 and may go back through FY 01-02. It is probable that Caltrans will be looking at the Subregions including the recordkeeping and billing at that level. Ed Paul, Internal Auditor, will be visiting the Subregions before Caltrans begins their audit.

He added that the Subcommittee approved an Internal Audit Work Plan for FY 04-05.

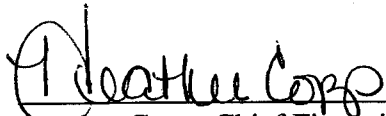
7.0 FUTURE AGENDA ITEMS

- Guidelines for Partnerships and Sponsorships Funding

8.0 ANNOUNCEMENTS

9.0 ADJOURNMENT

Chairman Richard Dixon adjourned the meeting at 9:50 a.m.



Heather Copp, Chief Financial Officer
Staff to the Administration Committee